

By: Thompson of Brazoria

H.B. No. 1330

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the factors to be considered in determining the amount
3 of an administrative penalty assessed by the Texas Commission on
4 Environmental Quality.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 7.053, Water Code, is amended to read as
7 follows:

8 Sec. 7.053. FACTORS TO BE CONSIDERED IN DETERMINATION OF
9 PENALTY AMOUNT. In determining the amount of an administrative
10 penalty, the commission shall consider:

11 (1) the nature, circumstances, extent, duration, and
12 gravity of the prohibited act, with special emphasis on:

13 (A) the impairment of existing water rights;

14 (B) [or] the hazard or potential hazard created
15 to the health or safety of the public; or

16 (C) whether the prohibited act created or is a
17 public nuisance;

18 (2) the impact of the violation on:

19 (A) air quality in the region;

20 (B) a receiving stream or underground water
21 reservoir;

22 (C) instream uses, water quality, aquatic and
23 wildlife habitat, or beneficial freshwater inflows to bays and
24 estuaries; or

1 (D) affected persons;

2 (3) with respect to the alleged violator:

3 (A) the history and extent of previous
4 violations;

5 (B) the degree of culpability, including whether
6 the violation was attributable to mechanical or electrical failures
7 and whether the violation could have been reasonably anticipated
8 and avoided;

9 (C) the demonstrated good faith, including
10 actions taken by the alleged violator to rectify the cause of the
11 violation and to compensate affected persons;

12 (D) economic benefit gained through the
13 violation; and

14 (E) the amount necessary to deter future
15 violations; and

16 (4) any other matters that justice may require.

17 SECTION 2. The change in law made by this Act applies only
18 to the assessment of an administrative penalty for a violation that
19 occurs on or after the effective date of this Act. The assessment
20 of an administrative penalty for a violation that occurred before
21 the effective date of this Act is governed by the law in effect on
22 the date the violation occurred, and the former law is continued in
23 effect for that purpose.

24 SECTION 3. This Act takes effect September 1, 2019.