

## **BILL ANALYSIS**

Senate Research Center  
89R29477 ANG-D

C.S.H.B. 5560  
By: Harris (Perry)  
Water, Agriculture and Rural Affairs  
5/13/2025  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under Chapter 36 of the Water Code, groundwater conservation districts enforce their rules by setting reasonable civil penalties that may be assessed by a court of competent jurisdiction against a violator. The civil penalties that the court may assess against a violator for overpumping, unauthorized pumping, drilling illegal wells, or other violations is currently capped at \$10,000 per violation, with each day of a continuing violation constituting a separate violation. As water supplies in Texas have become scarcer and more valuable, this maximum civil penalty cap, which has not been increased in approximately two decades, is inadequate to deter overpumping and other violations for large water projects where the economic benefit of unauthorized pumping may greatly outweigh the maximum cost exposure in civil penalties to the violator. H.B. 5560 increases the civil penalty cap that may be assessed by a court from \$10,000 to \$25,000, and also allows the court to assess a higher penalty as deemed necessary and appropriate by the court to discourage future violations if the court determines that the economic benefit gained by the violator as a result of the violation is higher than the amount of civil penalties that may be assessed under the \$25,000 penalty cap.

(Original Author/Sponsor's Statement of Intent)

C.S.H.B. 5560 amends current law relating to penalties in certain suits involving a groundwater conservation district and increases a penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the board of directors of a groundwater conservation district is modified in SECTION 1 (Section 36.102, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 36.102, Water Code, by amending Subsection (b) and adding Subsections (b-1) and (f), as follows:

(b) Authorizes the board of directors of a groundwater conservation district (district), except as provided by Subsection (f), to by rule set reasonable civil penalties, including a range of reasonable civil penalties, that the district is authorized to recover from a person for breach of any rule of the district in an amount not to exceed \$25,000, rather than \$10,000, per day per violation, and provides that each day of a continuing violation constitutes a separate violation. Makes nonsubstantive changes.

(b-1) Requires the court, in determining the amount of a civil penalty under Section 36.102 (Enforcement of Rules), to consider certain matters.

(f) Authorizes the court, in an enforcement action brought by a district against a person, to assess a penalty greater than the maximum penalty authorized under Subsection (b) if the court determines that the person gained an economic benefit as a result of the violation that was greater than the maximum penalty under Subsection (b). Requires that a penalty assessed under this subsection be in an amount determined by the court to be necessary and appropriate to outweigh the economic benefit gained by the person as a result of the violation and discourage future violations.

SECTION 2. Amends Subchapter D, Chapter 36, Water Code, by adding Sections 36.1021 and 36.1022, as follows:

Sec. 36.1021. DEFERRAL OF PENALTY. (a) Authorizes a court by order to allow person to defer the payment of not more than 50 percent of the total amount of the civil penalties awarded by the court to a district for a violation under Section 36.102 on the condition that the person complies with all provisions for corrective action to address the violation.

(b) Requires that a court order under Subsection (a) require the person to spend an amount of money equal to the amount of the civil penalty deferred by the court to mitigate the consequences of a violation of a rule of the district or prevent future violations of a rule of the district.

(c) Requires the court, in determining whether deferral of a civil penalty under this section is appropriate and the amount, if any, to be deferred, to consider certain factors.

(d) Authorizes the corrective action for purposes of Subsection (a), if the person seeking deferral of a civil penalty under this section is a wholesale or retail public water system, to include capital improvements that benefit the water system in which the violation occurred, including securing additional sources of water supply, addressing system water loss, or otherwise addressing water conservation issues.

(e) Authorizes the court to require the person to pay the full amount of the civil penalty under Section 36.102 if the court finds that the person is not in compliance with a provision of the court order issued under Subsection (a) of this section.

Sec. 36.1022. RECOVERY OF CIVIL PENALTY BY WATER AND SEWER UTILITY. (a) Authorizes a court that has assessed a civil penalty against a water and sewer utility, as defined by Section 13.002 (Definitions), under Section 36.102 for violation of a district rule limiting groundwater production, to authorize the utility to recover, in any manner that is equitable and just, all or part of the civil penalty from any customers or class of customers responsible for causing the utility to violate the rule.

(b) Authorizes the court to allow the recovery of the civil penalty only if the court finds that the utility acted in good faith and exercised reasonable diligence in implementing and enforcing the terms of the utility's drought contingency plan required by Section 11.1272 (Additional Requirement: Drought Contingency Plans for Certain Applicants and Water Right Holders) and the customers from whom the civil penalty will be recovered continued to violate the provisions of the drought contingency plan despite the utility's enforcement measures.

(c) Authorizes the utility to retain a civil penalty recovered under this section unless the court directs the utility to use the money for a specific purpose in the interests of justice.

(d) Provides that a civil penalty recovered under this section is not a rate as defined by Section 13.002 and is prohibited from being considered revenue of the utility in a rate proceeding under Chapter 13 (Water Rates and Services).

SECTION 3. Makes application of Section 36.102, Water Code, as amended by this Act, and Sections 36.1021 and 36.1022, Water Code, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2025.