

- SUBJECT:** Allowing supplemental environmental projects in lieu of penalties
- COMMITTEE:** Environmental Regulation — favorable, without amendment
- VOTE:** 9 ayes — Morrison, E. Rodriguez, Isaac, Kacal, K. King, P. King, Lozano, Reynolds, E. Thompson
- 0 nays
- WITNESSES:** For — Bryan Grimes, City of Ballinger; (*Registered, but did not testify:* Jim Allison, County Judges and Commissioners Association of Texas; Shanna Igo, Texas Municipal League; Rick Hardcastle, Wilbarger County and City of Vernon)
- Against — None
- On — (*Registered, but did not testify:* Cyrus Reed, Lone Star Chapter Sierra Club; Caroline Sweeney, Texas Commission on Environmental Quality)
- BACKGROUND:** Texas Water Code, sec. 7.051 allows the Texas Commission on Environmental Quality (TCEQ) to assess administrative penalties for violations of TCEQ rules, permits, or provisions of code within the agency’s jurisdiction.
- Under Texas Water Code, sec. 7.067, TCEQ may approve a supplemental environmental project that is necessary to bring a respondent into compliance with environmental laws or that is necessary to remediate environmental harm caused by the respondent’s alleged violation if the respondent is a local government. A supplemental environmental project is a project that prevents pollution, reduces the amount of pollutants reaching the environment, enhances the quality of the environment, or contributes to public awareness of environmental matters.
- DIGEST:** HB 1269 would require the Texas Commission on Environmental Quality (TCEQ) to approve a supplemental environmental project in lieu of

payment of an administrative penalty if the respondent was:

- a county with a population of less than 50,000; or
- another local government with any territory located in a county with a population of less than 50,000.

If the cost of the supplemental environmental project was less than the amount that would have been assessed under the administrative penalty, the local government would have to spend the difference on upgrading the facility at which the violation occurred.

HB 1269 also would exempt these local governments from TCEQ's policy preventing regulated entities from systematically avoiding compliance through the use of supplemental environmental projects.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

HB 1269 would allow a county with population of less than 50,000 to apply the amount of money it would have paid in an administrative penalty toward addressing the problem that caused the violation.

TCEQ does not take the population density of jurisdictions into account when assessing fines for environmental infractions. As a result, fines imposed on smaller communities have a substantial financial impact per capita, hampering a smaller community's ability to fix the problem that caused the violation. As smaller communities continue to need repairs on aging infrastructure, HB 1269 would be a common sense approach to allow the spending of money to fix a problem rather than just pay a fine.

**OPPONENTS  
SAY:**

Requiring TCEQ to approve a supplemental environmental project in lieu of penalty payment might not be appropriate in every instance. TCEQ should continue to have the flexibility and discretion to assess penalties as appropriate.