

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1509
By: Hancock
Natural Resources & Economic Development
4/29/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that the process allowing local governments to bring lawsuits for penalties and injunctive relief for alleged violations of environmental laws, such as illegal dumping of pollutants and unpermitted waste sites, supplements the enforcement activities of the Texas Commission on Environmental Quality (TCEQ) and has been in place for several decades. However, abuse of these types of suits threatens the fairness of Texas' environmental enforcement system and economic competitiveness.

C.S.S.B. 1509 sets reasonable limitations on civil penalties in suits brought by local governments against alleged polluters (which can be brought in addition to damages and criminal penalties), enacts a statute of limitations on when these suits may be filed, and directs a court or jury to consider the same factors that TCEQ considers when it assesses administrative penalties when determining an appropriate penalty amount.

C.S.S.B. 1509 amends current law relating to suits brought by local government for violations of certain laws under the jurisdiction of, or rules adopted or orders or permits issued by, the Texas Commission on Environmental Quality and affects civil penalties.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter H, Chapter 7, Water Code, by adding Sections 7.359, 7.360, and 7.361, as follows:

Sec. 7.359. **LIMITATION ON CIVIL PENALTY.** (a) Provides that, in a suit brought by a local government under this subchapter, a person may be assessed a civil penalty of not less than \$50 and not more than \$25,000 for each day of each violation, provided that the total amount assessed may not exceed \$4.3 million.

(b) Provides that this section does not limit the state's authority to pursue the assessment of a civil penalty under this chapter.

Sec. 7.360. **FACTORS TO BE CONSIDERED IN DETERMINING AMOUNT OF CIVIL PENALTY.** Requires the trier of fact, in determining the amount of a civil penalty to be assessed in a suit brought by a local government under this subchapter, to consider the factors described by Section 7.053 (Factors to be Considered in Determination of Penalty Amount).

Sec. 7.361. LIMITATIONS. Requires a suit for a civil penalty that is brought by a local government under this subchapter to be brought not later than the fifth anniversary of the earlier of the date the person who committed the violation:

- (1) Notifies the Texas Natural Resource Conservation Commission (TNRCC) in writing of the violation; or
- (2) receives a notice of enforcement from TNRCC with respect to the alleged violation.

SECTION 2. Makes application of this Act prospective in regard to a violation.

SECTION 3. Effective date: September 1, 2015.