

House Bill 1794
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 7.107, Water Code, is amended to read as follows:

Sec. 7.107. DIVISION OF CIVIL PENALTY. Except in a suit brought for a violation of Chapter 28 of this code or of Chapter 401, Health and Safety Code, a civil penalty recovered in a suit brought under this subchapter by a local government shall be ~~equally~~ divided as follows ~~between~~:

(1) the first \$4.3 million of the amount recovered shall be divided equally between:

(A) the state; and

(B) ~~(2)~~ the local government that brought the suit; and

(2) any amount recovered in excess of \$4.3 million shall be awarded to the state.

SECTION 2. Subchapter H, Chapter 7, Water Code, is amended by adding Sections 7.359, 7.360, and 7.361 to read as follows:

Sec. 7.359. LIMITATION ON CIVIL PENALTY. (a) Except as provided by Subsection (b), 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 amount assessed may not exceed \$4.3 million.

(b) 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. In determining the amount of a civil penalty to be assessed in a suit brought by a local government under this subchapter, the trier of fact shall consider the factors described by Section 7.053.

SENATE VERSION (CS)

SECTION 1. Same as House version.

SECTION 2. Subchapter H, Chapter 7, Water Code, is amended by adding Sections 7.359 and 7.360 to read as follows:

Sec. 7.359. FACTORS TO BE CONSIDERED IN DETERMINING AMOUNT OF CIVIL PENALTY. In determining the amount of a civil penalty to be assessed in a suit brought by a local government under this subchapter, the trier of fact shall consider the factors described by Section 7.053.

CONFERENCE

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HOUSE VERSION

Sec. 7.361. LIMITATIONS. A suit for a civil penalty that is brought by a local government under this subchapter must be brought not later than the fifth anniversary of the earlier of the date the person who committed the violation:
(1) notifies the commission in writing of the violation; or
(2) receives a notice of enforcement from the commission with respect to the alleged violation.

SECTION 3. The changes in law made by this Act apply only to a violation that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.

SENATE VERSION (CS)

Sec. 7.360. LIMITATIONS. A suit for a civil penalty that is brought by a local government under this subchapter must be brought not later than the fifth anniversary of the earlier of the date the person who committed the violation:
(1) notifies the commission in writing of the violation; or
(2) receives a notice of enforcement from the commission with respect to the alleged violation.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

CONFERENCE