

CHAPTER 551

H.B. No. 2429

AN ACT

relating to consideration of supplemental environmental projects in determining the amount of certain administrative penalties under the Water Code.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 26.136(n), Water Code, is amended to read as follows:

(n) Notwithstanding any other provision to the contrary, the commission may compromise, modify, or remit, with or without condition, any civil penalty imposed under this section. *In determining the appropriate amount of a civil penalty for settlement of an administrative enforcement matter, the commission, in its discretion, may consider the willingness of a respondent to contribute to supplemental environmental projects that are approved by the commission, giving preference to those projects that benefit the community in which the alleged violation occurred. In this subsection, "supplemental environmental project" means 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. The term does not include projects that are necessary to bring the respondent into compliance with environmental laws or that are necessary to remediate the environmental harm caused by the alleged violation.*

SECTION 2. Section 361.251, Health and Safety Code, is amended by adding Subsection (u) to read as follows:

(u) *The department may compromise, modify, or remit, with or without conditions, a civil penalty imposed under this section. In determining the appropriate amount of a civil penalty for settlement of an administrative enforcement matter, the department, in its discretion, may consider the willingness of a respondent to contribute to supplemental environmental projects that are approved by the department, giving preference to those projects that benefit the community in which the alleged violation occurred. In this subsection, "supplemental environmental project" means 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. The term does not include projects that are necessary to bring the respondent into compliance with environmental laws or that are necessary to remediate the environmental harm caused by the alleged violation.*

SECTION 3. Section 361.252(o), Health and Safety Code, is amended to read as follows:

(o) *The commission may compromise, modify, or remit, with or without conditions, a civil penalty imposed under this section. In determining the appropriate amount of a civil penalty for settlement of an administrative enforcement matter, the commission, in its discretion, may consider the willingness of a respondent to contribute to supplemental environmental projects that are approved by the commission, giving preference to those projects that benefit the community in which the alleged violation occurred. In this subsection, "supplemental environmental project" means 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. The term does not include projects that are necessary to bring the respondent into compliance with environmental laws or that are necessary to remediate the environmental harm caused by the alleged violation.*

SECTION 4. Section 382.088, Health and Safety Code, is amended by adding Subsection (j) to read as follows:

(j) *The board may compromise, modify, or remit, with or without conditions, a civil penalty imposed under this section. In determining the appropriate amount of a civil penalty for settlement of an administrative enforcement matter, the board, in its discretion, may consider the willingness of a respondent to contribute to supplemental environmental projects that are approved by the board, giving preference to those projects that benefit the community in which the alleged violation occurred. In this subsection, "supplemental*

environmental project” means 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. The term does not include projects that are necessary to bring the respondent into compliance with environmental laws or that are necessary to remediate the environmental harm caused by the alleged violation.

SECTION 5. This Act does not affect the transfer of powers, duties, rights, and obligations made by Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991.

SECTION 6. The changes in law made by this Act apply to the determination of a civil penalty for settlement of an administrative enforcement matter brought on or after the effective date of this Act or in which a final decision is pending before the Texas Water Commission or the Texas Air Control Board on the effective date of this Act.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 7, 1993: Yeas 139, Nays 0, 2 present, not voting; passed by the Senate on May 22, 1993: Yeas 30, Nays 0.

Approved June 8, 1993.

Effective June 8, 1993.