

SUBJECT: Allowing TNRCC to collect penalties and interest on unpaid balances

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 9 ayes — Chisum, Allen, Culberson, Dukes, Howard, Kuempel, Palmer,  
Talton, Zbranek

0 nays

SENATE VOTE: On final passage, Local and Uncontested Calendar, April 29 — 30-0

WITNESSES: No public hearing

DIGEST: SB 1433 would allow Texas Natural Resource Conservation Commission (TNRCC) to collect penalties and interest on delinquent fees. A penalty would be five percent of the amount owed if the fee were not paid on time. An additional penalty of five percent of the amount owed would be collected if the fee were not paid within 30 days after the date the fee was due.

Unless otherwise provided by law, interest would accrue beginning on the 61st day after the fee was due on the total amount of fee and penalties that had not been paid within the 61 days. The yearly interest rate would be 12 percent. TNRCC's executive director could, for good cause, waive the penalty or interest on a fee and penalties authorized under SB 1433. Penalties and interest, unless otherwise provided by law, would be deposited to the credit of the fund or account to which the fee was required to be deposited.

The bill also would allow TNRCC to collect interest on unpaid balances of recoverable costs under three different programs areas: oil and hazardous substance spill prevention and control, underground and aboveground storage tank spills, and hazardous and solid waste remediation. Interest would accrue under these three areas, found in Subchapters I and G of the Water Code, and sec. 361.197 of the Health and Safety Code, starting on the date that payment of a certain amount was demanded in writing, or the date the expenditure occurred, whichever was later.

The interest rate on the unpaid balance of the amounts recoverable would be the same as the rate established by Health and Safety Code, sec. 361.140.

(The code provides that the penalties and interest may not exceed those established for delinquent taxes under secs. 111.060 and 111.061 of the Tax Code. These sections set a yearly interest rate of 12 percent, and a penalty of five percent of the amount past due, with an additional 5 percent penalty if it is not paid within 30 days. An additional 50 percent can be imposed if it is determined that failure to pay was the result of fraud.)

Interest collected under these programs would be deposited to the credit of the Texas Spill Response Account, the Petroleum Storage Tank Remediation Account, and the Hazardous and Solid Waste Remediation Fee Account.

SB 1433 would take effect September 1, 1999, and would apply only to fees that were due, or costs that were incurred, by TNRCC on or after September 1, 1999.

**SUPPORTERS  
SAY:**

By clarifying and codifying TNRCC's existing statutory authority to collect penalties and interest on delinquent fees, SB 1433 would encourage parties responsible for contaminated sites to pay their fees on time or face extra costs.

This would be consistent with TNRCC's efforts to improve fee collection. TNRCC would be clearly authorized to deposit an interest charge for late payment to the same account in general revenue where the fee was deposited. This would simplify the accounting for fee collections, promote timely reporting and payment of fees, and maintain adequate cash flow to the accounts.

The bill also would give TNRCC the authority, which it did not previously enjoy, to assess interest on the recoverable costs of various programs. It would direct that money be deposited to the accounts dedicated to cleanup of polluted sites rather than to the general revenue fund.

The bill would not result in a significant loss of revenue to the state. The Legislative Budget Board fiscal note estimates the bill would result in only \$128,000 being redirected annually from the general revenue fund to the dedicated pollution cleanup accounts.

Texas law does not specifically authorize interest or penalties on recoverable costs, but federal law does authorize interest and penalties on unpaid amounts

under cost recovery in some instances. SB 1433 would make state law more consistent with the federal statutes. It would provide that interest penalties on unpaid recoverable costs would be collected for late payment of costs related to superfund cleanups, petroleum storage tank leaks, and other similar actions. This would be an incentive to those responsible for those costs to pay them in a timely manner.

OPPONENTS  
SAY:

No apparent opposition