HB 3035 by Zwiener: Putting the Deterrence Back into Administrative Environmental Penalties by Requiring the Penalty to fit the Crime

HB 3035 would finally require what many citizens, organizations and advocates for a penalty policy at TCEQ that would deter future environmental “crimes”: assure that industry can not gain economically by breaking the law.


The changes brought the document up-to-date with practices that were already effective, including statutory changes that were made during the 82nd and 83rd legislative sessions, adding deferral criteria, reorganization to better align the policy with the penalty calculation worksheet, updating the implementation language, and other edits to improve clarification.

Nevertheless, while TCEQ must already look at the “economic benefit of non-compliance” as part of setting administrative penalties, they are not required to specifically recover that “benefit” that a rule-breaker gets by breaking the law. Instead, in practice, TCEQ calculates the economic benefit but only looks a enhancing the penalty if the amount is above $15,000 and then only by a bump in the penalty of 50% not the full value of economic benefit.

While TCEQ has improved their enforcement policy over the years, in essence this still means for some businesses, the fine for breaking environmental rules, standards or laws is just the “cost of doing business.”
They would prefer to pay a slap-on-the-wrist fine and move on, in the meantime enjoying a competitive advantage over their competitors.

HB 3035 would require TCEQ to fully recover the cost of the economic benefit of environmental non-compliance up to maximum penalties set by statute, except where a non-profit business or governmental entity is involved. The Sierra Club fully supports this common-sense measure that many other states have already adopted.