

By: Bowers, et al.

H.B. No. 874

A BILL TO BE ENTITLED

AN ACT

relating to an exemption to the cancellation of a water right for nonuse.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.173(b), Water Code, is amended to read as follows:

(b) A permit, certified filing, or certificate of adjudication or a portion of a permit, certified filing, or certificate of adjudication is exempt from cancellation under Subsection (a):

(1) to the extent of the owner's participation in the Conservation Reserve Program authorized by the Food Security Act, Pub.L. No. 99-198, Secs. 1231-1236, 99 Stat. 1354, 1509-1514 (1985) or a similar governmental program;

(2) if a significant portion of the water authorized to be used pursuant to a permit, certified filing, or certificate of adjudication has been used in accordance with a specific recommendation for meeting a water need included in the regional water plan approved pursuant to Section 16.053;

(3) if the permit, certified filing, or certificate of adjudication:

(A) was obtained to meet demonstrated long-term public water supply or electric generation needs as evidenced by a water management plan developed by the holder; and

1 (B) is consistent with projections of future  
2 water needs contained in the state water plan;

3 (4) if the permit, certified filing, or certificate of  
4 adjudication was obtained as the result of the construction of a  
5 reservoir funded, in whole or in part, by the holder of the permit,  
6 certified filing, or certificate of adjudication as part of the  
7 holder's long-term water planning; or

8 (5) to the extent the nonuse resulted from:

9 (A) the implementation of water conservation  
10 measures under a water conservation plan submitted by the holder of  
11 the permit, certified filing, or certificate of adjudication as  
12 evidenced by implementation reports submitted by the holder;

13 (B) a suspension, adjustment, or other  
14 restriction on the use of the water authorized to be appropriated  
15 under the permit, certified filing, or certificate of adjudication  
16 imposed under an order issued by the executive director; ~~or~~

17 (C) an inability to appropriate the water  
18 authorized to be appropriated under the permit, certified filing,  
19 or certificate of adjudication due to drought conditions; or

20 (D) an executed temporary or permanent  
21 forbearance agreement that:

22 (i) promotes restoration, preservation, or  
23 enhancement of instream flows;

24 (ii) was entered into by the holder of the  
25 permit, certified filing, or certificate of adjudication; and

26 (iii) was filed with the commission not  
27 later than the 180th day after the date the agreement was executed.

1 SECTION 2. This Act takes effect September 1, 2023.