

By: Wilson

H.B. No. 5279

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition on interbasin transfers of state water.

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

SECTION 1. Section 11.085(a), Water Code, is amended to read as follows:

(a) A ~~[No]~~ person may not take or divert any state water from a river basin in this state and transfer such water to any other river basin ~~[without first applying for and receiving a water right or an amendment to a permit, certified filing, or certificate of adjudication from the commission authorizing the transfer].~~

SECTION 2. Section 11.0237(b), Water Code, is amended to read as follows:

(b) This section does not alter the commission's obligations under Section 11.042(a-1), (b), or (c), 11.046(b), ~~[11.085(k)(2)(F)]~~ 11.134(b)(3)(D), 11.147, 11.1471, 11.1491, 11.150, 11.152, 16.058, 16.059, or 18.004.

SECTION 3. Section 16.053(e), Water Code, is amended to read as follows:

(e) Each regional water planning group shall submit to the development board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the development board under Section 16.051(d);

(2) provides information based on data provided or

1 approved by the development board in a format consistent with the
2 guidelines provided by the development board under Subsection (d);

3 (2-a) is consistent with the desired future conditions
4 adopted under Section 36.108 for the relevant aquifers located in
5 the regional water planning area as of the most recent deadline for
6 the board to adopt the state water plan under Section 16.051 or, at
7 the option of the regional water planning group, established
8 subsequent to the adoption of the most recent plan; provided,
9 however, that if no groundwater conservation district exists within
10 the area of the regional water planning group, the regional water
11 planning group shall determine the supply of groundwater for
12 regional planning purposes; the Texas Water Development Board shall
13 review and approve, prior to inclusion in the regional water plan,
14 that the groundwater supply for the regional planning group without
15 a groundwater conservation district in its area is physically
16 compatible, using the board's groundwater availability models,
17 with the desired future conditions adopted under Section 36.108 for
18 the relevant aquifers in the groundwater management area that are
19 regulated by groundwater conservation districts;

20 (3) identifies:

21 (A) each source of water supply in the regional
22 water planning area, including information supplied by the
23 executive administrator on the amount of modeled available
24 groundwater in accordance with the guidelines provided by the
25 development board under Subsections (d) and (f);

26 (B) factors specific to each source of water
27 supply to be considered in determining whether to initiate a

1 drought response;

2 (C) actions to be taken as part of the response;

3 (D) existing major water infrastructure
4 facilities that may be used for interconnections in the event of an
5 emergency shortage of water; and

6 (E) unnecessary or counterproductive variations
7 in specific drought response strategies, including outdoor
8 watering restrictions, among user groups in the regional water
9 planning area that may confuse the public or otherwise impede
10 drought response efforts;

11 (4) has specific provisions for water management
12 strategies to be used during a drought of record;

13 (5) includes but is not limited to consideration of
14 the following:

15 (A) any existing water or drought planning
16 efforts addressing all or a portion of the region and potential
17 impacts on public health, safety, or welfare in this state;

18 (B) approved groundwater conservation district
19 management plans and other plans submitted under Section [16.054](#);

20 (C) all potentially feasible water management
21 strategies, including but not limited to improved conservation,
22 reuse, and management of existing water supplies, conjunctive use,
23 acquisition of available existing water supplies, and development
24 of new water supplies;

25 (D) protection of existing water rights in the
26 region;

27 (E) opportunities for and the benefits of

1 developing regional water supply facilities or providing regional
2 management of water supply facilities;

3 (F) appropriate provision for environmental
4 water needs and for the effect of upstream development on the bays,
5 estuaries, and arms of the Gulf of Mexico and the effect of plans on
6 navigation;

7 (G) [~~provisions in Section 11.085(k)(1) if~~
8 ~~interbasin transfers are contemplated,~~

9 [(H)] voluntary transfer of water within the
10 region using, but not limited to, regional water banks, sales,
11 leases, options, subordination agreements, and financing
12 agreements;

13 (H) [(I)] emergency transfer of water under
14 Section 11.139, including information on the part of each permit,
15 certified filing, or certificate of adjudication for nonmunicipal
16 use in the region that may be transferred without causing
17 unreasonable damage to the property of the nonmunicipal water
18 rights holder; and

19 (I) [(J)] opportunities for and the benefits of
20 developing large-scale desalination facilities for:

21 (i) marine seawater that serve local or
22 regional entities; and

23 (ii) brackish groundwater that serve local
24 or regional brackish groundwater production zones identified and
25 designated under Section 16.060(b)(5);

26 (6) identifies river and stream segments of unique
27 ecological value and sites of unique value for the construction of

1 reservoirs that the regional water planning group recommends for
2 protection under Section 16.051;

3 (7) assesses the impact of the plan on unique river and
4 stream segments identified in Subdivision (6) if the regional water
5 planning group or the legislature determines that a site of unique
6 ecological value exists;

7 (8) describes the impact of proposed water projects on
8 water quality;

9 (9) includes information on:

10 (A) projected water use and conservation in the
11 regional water planning area; and

12 (B) the implementation of state and regional
13 water plan projects, including water conservation strategies,
14 necessary to meet the state's projected water demands;

15 (10) if the regional water planning area has
16 significant identified water needs, provides a specific assessment
17 of the potential for aquifer storage and recovery projects to meet
18 those needs;

19 (11) sets one or more specific goals for gallons of
20 water use per capita per day in each decade of the period covered by
21 the plan for the municipal water user groups in the regional water
22 planning area; and

23 (12) assesses the progress of the regional water
24 planning area in encouraging cooperation between water user groups
25 for the purpose of achieving economies of scale and otherwise
26 incentivizing strategies that benefit the entire region.

27 SECTION 4. Section 16.403(e), Water Code, is amended to

1 read as follows:

2 (e) Data included in a water conservation plan or report
3 required under this code and submitted to the board or commission
4 must be interpreted in the context of variations in local water
5 use. ~~[The data may not be the only factor considered by the
6 commission in determining the highest practicable level of water
7 conservation and efficiency achievable in the jurisdiction of a
8 municipality or water utility for purposes of Section 11.085(1).]~~

9 SECTION 5. Sections 11.085(b) through (v), Water Code, are
10 repealed.

11 SECTION 6. (a) This Act does not apply to an application
12 for a water right or an amendment to a permit, certified filing, or
13 certificate of adjudication authorizing an interbasin transfer of
14 water that is accepted for filing before the effective date of this
15 Act.

16 (b) An application for a water right or an amendment to a
17 permit, certified filing, or certificate of adjudication
18 authorizing an interbasin transfer of water that is accepted for
19 filing before the effective date of this Act is governed by the law
20 in effect at the time the application is accepted for filing, and
21 the former law is continued in effect for that purpose.

22 SECTION 7. This Act takes effect September 1, 2023.