

## **BILL ANALYSIS**

C.S.H.B. 2250  
By: Flores  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Rio Grande Watermaster is responsible for allocating, monitoring and controlling the use of surface water in the Rio Grande Basin from Fort Quitman to the mouth of the Rio Grande. Unlike elsewhere in Texas where water is a flow resource, surface water in the Rio Grande below Amistad is a stock resource meaning that water accumulates in Amistad and Falcon reservoirs and is released on demand. Amistad and Falcon reservoirs are considered one system with water frequently released from the upstream dam (Amistad) to replenish Falcon reservoir and meet the demands in the Lower Rio Grande Valley. The watermaster is the authorized agent allowed to request releases of United States water held in storage at Amistad/Falcon.

In addition to existing authority of watermasters, the bill makes clear that the Rio Grande watermaster has certain roles in cases of imminent threat to public health and safety or the environment. The bill requires the Texas Commission on Environmental Quality (TCEQ) to make rules in this area to define the scope of those duties.

The bill also makes clear that the Rio Grande watermaster has the authority, in accordance with rules prescribed by the TCEQ, to transport new water from an upriver seller to a down river buyer and to divert the water to the buyer (subject to a water loss formula). A bed and banks permit would be required for the transportation of the water.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 11.3271, Subchapter G, Water Code) and SECTION 3 (Section 11.3271, Subchapter G, Water Code) of this bill.

### **ANALYSIS**

SECTION 1. Amends the Texas Water Code to add a section which applies only to the watermaster with jurisdiction over the Rio Grande and the water division for which that watermaster is appointed. The bill requires the watermaster to divide the water of the streams or other sources of supply in accordance with the adjudicated water rights; requires the watermaster to regulate the controlling works of reservoirs and diversion works in time of water shortage, as is necessary due to rights existing in the streams, to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled; and authorizes the water master to regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

C.S.H.B. 2250 also prohibits the duties of the watermaster in any activities relating to other programs of the commission, except as provided in this section. The bill stipulates that the duties of the watermaster include activities of imminent threat to public health and safety or the environment. Further, the bill requires the commission to adopt rules to define situations of imminent threat, and the rules must address terrorism response.

C.S.H.B. 2250 also authorizes the watermaster to store water in transit for release at a later time. The bill defines “water in transit” as water, not including state water, that a person has pumped from an underground reservoir from the point of discharge into the river to the place of use or the point of diversion by a person who has contracted with the owner of the water in transit to purchase, provided that the contract specify that the contract is for the purchase and delivery of a specified amount of water less the carriage losses incurred in transit, as described and measured by commission rules.

C.S.H.B. 2250 also stipulates that the watermaster may only allow storage of the water when the storage will not hinder any other Rio Grande surface water right’s ability to store its maximum authorized capacity. The bill also provides that prior to issuing a permit to convey water, the TCEQ shall adopt rules providing for the method to account for all water conveyed via this Act. Further, the bill stipulates that a permit holder may not share in any beneficial state water inflows into the Rio Grande, and the permit holder is entitled to convey only the amount of water specified in the permit, less the carriage losses, as described and measured by commission rules. Also, the bill provides that any rules adopted must be consistent with certain treaties and minute orders. The bill also stipulates that a permit may not be issued if the water to be conveyed would degrade the water quality of the Rio Grande.

Finally, C.S.H.B. 2250 names the Rio Grande Watermaster as the official recorder for all financial instruments that deal with the purchase of water rights. All financial records, including liens, would be required to be filed with the Rio Grande Watermaster.

SECTION 2. This section stipulates that the Act does not apply to the Rio Grande above the Fort Quitman Dam.

SECTION 3. Effective Date. This section also requires the Texas Natural Resources Conservation Commission to adopt rules for the implementation of this Act and requires the commission to expedite any application for a permit to be issued under Section 11.042, Water Code.

#### **EFFECTIVE DATE**

September 1, 2003.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 2250 adds a new subsections (g), (h), (i), and (j) to Section 11.3271, Water Code, which add the following requirements:

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