

By: Christian

H.B. No. 423

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the transfer of groundwater from a rural county to another county.

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

SECTION 1. Chapter 11, Water Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. RESTRICTIONS ON TRANSFER OF GROUNDWATER

Sec. 11.551. NONAPPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a transfer of groundwater from:

(1) a groundwater conservation district; or

(2) a county with a population of more than 50,000.

Sec. 11.552. PERMIT REQUIRED. (a) A person must obtain a permit from the commission before:

(1) increasing, on or after September 1, 2003, the amount of groundwater to be transferred from a county in this state to another county under a continuing arrangement in effect before that date; or

(2) transferring groundwater from a county in this state to another county on or after September 1, 2003, under a new arrangement.

(b) An application for a permit under this section must include information regarding the number and types of users of groundwater from the aquifer from which the groundwater is proposed to be transferred.

1        (c) The commission may impose a reasonable fee for  
2 processing an application for a permit under this section.

3        Sec. 11.553. NOTICE. (a) Before determining whether to  
4 issue a permit under this section, the commission must mail notice  
5 of the application to:

6            (1) each water supply system that uses groundwater  
7 from the aquifer from which the groundwater is proposed to be  
8 transferred;

9            (2) the commissioners court of the county from which  
10 the groundwater is proposed to be transferred;

11           (3) each mayor of a municipality with a population of  
12 1,000 or more located in the county from which the groundwater is  
13 proposed to be transferred;

14           (4) each groundwater conservation district whose  
15 jurisdiction includes any part of the aquifer from which the  
16 groundwater is proposed to be transferred; and

17           (5) each state legislator whose district is located in  
18 whole or in part in:

19                (A) the county from which the groundwater is  
20 proposed to be transferred; or

21                (B) the county to which the groundwater is  
22 proposed to be transferred.

23        (b) The applicant must publish notice of the application  
24 once a week for two consecutive weeks in a newspaper of general  
25 circulation in the county from which the groundwater is proposed to  
26 be transferred and in the county to which the groundwater is  
27 proposed to be transferred. The published notice may not be smaller

1 than 96.8 square centimeters or 15 square inches, with the shortest  
2 dimension being at least 7.6 centimeters or three inches.

3 (c) The applicant shall pay the cost of mailing the notice.  
4 The commission by rule may establish procedures for payment of the  
5 cost.

6 Sec. 11.554. HEARING. If the application is contested in a  
7 manner requiring an evidentiary hearing under the rules of the  
8 commission, the commission must give notice and hold an evidentiary  
9 hearing, in accordance with commission rules and applicable state  
10 law.

11 Sec. 11.555. CONSIDERATIONS IN DETERMINING WHETHER TO ISSUE  
12 PERMIT. In determining whether to issue a permit under this  
13 section, the commission shall consider:

14 (1) the availability of water in the county from which  
15 the groundwater is proposed to be transferred and in the proposed  
16 receiving area during the period for which the water supply is  
17 requested;

18 (2) the availability of feasible and practicable  
19 alternative supplies to the applicant;

20 (3) the purposes for which the proposed receiving area  
21 will use the water and the amount of water that will be used for each  
22 purpose;

23 (4) the projected effect of the proposed transfer on:

24 (A) aquifer conditions;

25 (B) groundwater depletion;

26 (C) subsidence; and

27 (D) groundwater users within the county from

1 which the groundwater is proposed to be transferred; and

2 (5) the approved regional water plan for the regional  
3 water planning area that includes the county from which the  
4 groundwater is proposed to be transferred.

5 Sec. 11.556. LOCAL APPROVAL OF PERMIT ISSUANCE. (a) If the  
6 commission decides to issue a permit, the commission must mail, by  
7 certified mail in the manner provided by commission rules, written  
8 notice of its intent to issue the permit to:

9 (1) the water supply system that uses groundwater from  
10 the aquifer from which the groundwater is proposed to be  
11 transferred if the system is the only user of that groundwater; or

12 (2) if Subdivision (1) does not apply, the  
13 commissioners court of the county from which the groundwater is  
14 proposed to be transferred.

15 (b) The governing body of the water supply system or the  
16 commissioners court of the county, as applicable, may notify the  
17 commission in writing whether the governing body or commissioners  
18 court approves the issuance of the permit.

19 Sec. 11.557. ISSUANCE OF PERMIT. (a) The commission may  
20 issue a permit only if:

21 (1) the commission receives notice under Section  
22 11.556(b) that the governing body of the water supply system or the  
23 commissioners court of the county, as applicable, approves the  
24 issuance of the permit; or

25 (2) the commission does not receive notice under  
26 Section 11.556(b) within 30 days after the date the commission  
27 mails notice of its intent to issue the permit under Section

1 11.556(a).

2 (b) The permit shall specify:

3 (1) the amount of groundwater that may be transferred  
4 from the county; and

5 (2) the period for which the groundwater may be  
6 transferred.

7 Sec. 11.558. RULES. The commission shall adopt rules as  
8 necessary to implement this section.

9 SECTION 2. This Act takes effect September 1, 2003.