

By: Puente

H.B. No. 3083

A BILL TO BE ENTITLED

AN ACT

relating to the procedure for approval of certain amendments to a water right.

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

SECTION 1. (a) By enacting Chapter 1010, Acts of the 75th Legislature, Regular Session, 1997 (S.B. No. 1), the legislature created a regional and state water planning, development, and management process designed to ensure that the state timely plans for and develops water supplies necessary to meet existing and future water supply demands. S.B. No. 1 also addressed the need for timely amendments of existing water rights to help meet the state's water supply demands.

(b) The legislature finds that, by enacting S.B. No. 1 and that Act's amendment of Section 11.122(b), Water Code, the legislature established as the public policy of this state that an application for an amendment of a water right shall be granted promptly, without notice or public hearing, if the amendment does not result in an increase in the amount of water to be diverted or the authorized rate of diversion and if the requested change does not result in any greater impact on other water rights or the environment than the water right sought to be amended would have resulted in, assuming full exercise of the right as it existed before the requested amendment.

(c) The legislature finds that this established public

1 policy of the state has been frustrated by challenges that assert  
2 that notice of and public hearing on such an application is  
3 required.

4 (d) The legislature declares that it continues to be the  
5 public policy of this state that such an application shall be  
6 granted promptly without notice or public hearing.

7 SECTION 2. Section 11.122(b), Water Code, is amended to  
8 read as follows:

9 (b) The commission, without issuing notice under Section  
10 11.132 or holding a public hearing under Section 11.133, shall  
11 promptly approve an application for an amendment to a water right  
12 [Subject to meeting all other applicable requirements of this  
13 chapter for the approval of an application, an amendment], except  
14 an amendment to a water right that increases the amount of water  
15 authorized to be diverted or the authorized rate of diversion,  
16 [shall be authorized] if the requested change will not cause  
17 adverse impact on other water right holders or the environment on  
18 the stream of greater magnitude than under circumstances in which  
19 the permit, certified filing, or certificate of adjudication that  
20 is sought to be amended was fully exercised according to its terms  
21 and conditions as they existed before the requested amendment. An  
22 amendment to which this subsection applies shall be issued without  
23 regard to the amount of water used or consumed historically.  
24 Amendments to which this subsection applies include:

25 (1) an amendment adding an authorized purpose of use,  
26 unless the water right authorizes the water to be used for more than  
27 one consumptive use and expressly limits the amount or percentage

1 of water that may be used for each consumptive use; and

2 (2) an amendment that increases the area in which the  
3 water is authorized to be used.

4 SECTION 3. (a) This Act takes effect immediately if it  
5 receives a vote of two-thirds of all the members elected to each  
6 house, as provided by Section 39, Article III, Texas Constitution.  
7 If this Act does not receive the vote necessary for immediate  
8 effect, this Act takes effect September 1, 2003.

9 (b) This Act applies to an application to amend a water  
10 right that is filed with the Texas Commission on Environmental  
11 Quality before, on, or after the effective date of this Act.