

BILL ANALYSIS

H.B. 1225
By: Puente
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Chapter 11, Texas Water Code, governs water rights. A water right is the right to impound, divert, or use state surface water (not groundwater). According to Sec. 11.021 (a), Water Code, state water is "...water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state..." Such waters are held "in trust" and can only be used as authorized by law. The Texas Commission on Environmental Quality (TCEQ) is the agency designated to administer the permitting of state water rights. The commission is also authorized in Sec. 11.172, Water Code, to cancel a state water right if it has not been put to beneficial use for a period of 10 years.

In 2003, in an effort to realize water conservation's full potential, the 78th Texas Legislature created the Water Conservation Implementation Task Force via enactment of Senate Bill 1094. The Task Force was directed in SB 1094 to review, evaluate, and recommend optimum levels of water-use efficiency and conservation for Texas and to concentrate on issues related to (1) best management practices, (2) implementation of conservation strategies contained in regional water plans, (3) a statewide public-awareness program, (4) state funding of incentive programs, (5) goals and targets for per-capita water use considering climatic and demographic differences, and (6) evaluation of state oversight and support of conservation.

The Task Force completed its charges and submitted a report to the 79th Texas Legislature on November 1, 2004. One of the Task Force's recommendations was to give the TCEQ authority to exempt a state water right from cancellation for non-use if the non-use was the result of water conservation measures.

Allowing the TCEQ to exempt a state water right from cancellation for non-use encourages conservation of water. The 2002 State Water Plan recognizes conservation-based water management as one of the most effective strategies to help meet this challenge and ensure that the future water needs of Texans are met. Recommended and required water conservation programs and measures in the 2002 State Water Plan are projected to result in savings of approximately two million acre/feet of water per year by 2050.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1225 allows the TCEQ to exempt a state water right from cancellation for non-use if the non-use resulted from a water conservation measure that was part of a water conservation plan submitted by the water right holder. The bill applies only to a cancellation proceeding pending before the TCEQ on the bill's effective date or that is initiated on or after the effective date.

EFFECTIVE DATE

H.B. 1225 takes effect immediately if it receives 2/3rds vote in both chambers, otherwise it is effective Sept. 1, 2005.

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