

BILL ANALYSIS

H.B. 2425
By: Puente
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Water Code Section 11.122(b), commonly referred to as the Four Corners Doctrine, concerns certain amendments to water rights permits and was adopted by the Legislature in Senate Bill 1 in 1997. The Four Corners Doctrine provides that certain amendments to water rights “shall be authorized” without notice or opportunity for hearing, but only if the requested change does not contemplate an increase to either the amount of water to be diverted or the authorized rate of division, and only if it will not cause greater impact on other water rights or the environment, under a full use assumption of the existing water right. Under such limited circumstances, the Texas Commission on Environmental Quality (TCEQ) does not have to issue notice or conduct a contested case hearing.

The TCEQ has approved several applications to amend water rights under the Four Corners Doctrine, none of which contemplated an additional appropriation of water or an increased rate or period of diversion, and only after the agency determined that no downstream water right holders or the environment could be harmed by the proposed amendment, under an assumption of full use of the existing right. Several groups have disagreed with the actions of the TCEQ and have challenged the agency in court.

The State Water Plan identifies about 2.5 million acre-feet of existing water rights that could serve to meet projected demands, if they were able to be amended. Ensuring that the state has a process to amend some of these rights to address future demands by use of the Four Corners Doctrine will facilitate the state's ability to address its long term water needs.

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. 2425 clarifies the Legislature's intent in S.B. 1 to allow for amendments to water rights without notice and hearings, in certain prescribed and limited circumstances.

EFFECTIVE DATE

The Act takes effect immediately if it receives a 2/3rds vote in both chambers, otherwise effective Sept. 1, 2005.