

By: Geren

H.B. No. 387

Substitute the following for H.B. No. 387:

By: Puente

C.S.H.B. No. 387

A BILL TO BE ENTITLED

1

AN ACT

2 relating to prohibiting the Texas Commission on Environmental  
3 Quality from amending, interpreting, impairing, or modifying  
4 certain written contracts for the wholesale provision of water.

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

6 SECTION 1. Section 11.041, Water Code, is amended by  
7 amending Subsection (a) and adding Subsection (h) to read as  
8 follows:

9 (a) Any person entitled to receive or use water from any  
10 canal, ditch, flume, lateral, dam, reservoir, or lake or from any  
11 conserved or stored supply may present to the commission a written  
12 petition showing:

13 (1) that the petitioner [~~he~~] is entitled to receive or  
14 use the water;

15 (2) that the petitioner [~~he~~] is willing and able to pay  
16 a just and reasonable price for the water;

17 (3) that the party owning or controlling the water  
18 supply has water not contracted to others and available for the  
19 petitioner's use; [~~and~~]

20 (4) that the party owning or controlling the water  
21 supply fails or refuses to supply the available water to the  
22 petitioner, or that the price or rental demanded for the available  
23 water is not reasonable and just or is discriminatory; and

24 (5) that the petitioner does not have a current

1 contract with the party owning or controlling the water supply.

2 (h) Notwithstanding any other law, the commission may not  
3 amend, interpret, impair, or modify a written contract for the  
4 wholesale provision of water for any purpose provided by this  
5 chapter or Chapter 12 or 13, unless all the parties to the contract  
6 are governmental entities.

7 SECTION 2. Section 12.013, Water Code, is amended by adding  
8 Subsection (i) to read as follows:

9 (i) Notwithstanding any other law, the commission may not  
10 amend, interpret, impair, or modify a written contract for the  
11 wholesale provision of raw or treated water for any purpose  
12 provided by Chapter 11, this chapter, or Chapter 13, unless all the  
13 parties to the contract are governmental entities.

14 SECTION 3. Section 13.041, Water Code, is amended by adding  
15 Subsection (h) to read as follows:

16 (h) Notwithstanding any other law, the commission may not  
17 amend, interpret, impair, or modify a written contract for the  
18 wholesale provision of water for any purpose provided by Chapter 11  
19 or 12 or this chapter, unless all the parties to the contract are  
20 governmental entities.

21 SECTION 4. The changes in law made by this Act apply only to  
22 a contract executed on or after the effective date of this Act. A  
23 contract executed before the effective date of this Act is governed  
24 by the law in effect on the date the contract was executed, and the  
25 former law is continued in effect for that purpose.

26 SECTION 5. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2005.