

By: Staples

S.B. No. 1741

A BILL TO BE ENTITLED

1 AN ACT

2 relating to an exemption for certain interbasin transfers of water
3 from certain priority requirements.

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

5 SECTION 1. Section 11.002, Water Code, is amended by adding
6 Subdivision (15) to read as follows:

7 (15) "On-channel reservoir" means an open body of
8 water that is created by a dam or other barrier that obstructs the
9 flow of water in a stream and whose primary source of water is
10 runoff from that stream.

11 SECTION 2. Section 11.085, Water Code, is amended by
12 amending Subsection (s) and adding Subsections (w) and (x) to read
13 as follows:

14 (s) Except as provided by Subsections (w) and (x), any ~~Any~~
15 proposed transfer of all or a portion of a water right under this
16 section is junior in priority to water rights granted before the
17 time application for transfer is accepted for filing.

18 (w) A proposed transfer that is based on a contractual sale
19 of water is not subject to Subsection (s) if:

20 (1) the contract term is 50 years or less; and

21 (2) the transfer is from an on-channel reservoir that:

22 (A) is located in a basin that has an annual yield
23 of surface water that is equal to or greater than 125 percent of the
24 amount determined by the board to be necessary to supply the

1 projected demand for surface water in the basin of origin,
2 including the amount allocated by any contract entered into before
3 the contract on which the proposed transfer is based, for the next
4 50 years; and

5 (B) has sufficient storage capacity to yield the
6 supply authorized by the water right in the event of a drought equal
7 in severity and duration to the drought of record.

8 (x) The term of a contract under Subsection (w) may be
9 extended after the expiration of the contract if the conditions in
10 Subsection (w)(2) continue to be satisfied.

11 SECTION 3. Section 11.085, Water Code, as amended by this
12 Act, applies only to an application for a water right or an
13 amendment to a permit, certified filing, or certificate of
14 adjudication authorizing an interbasin transfer of water that is
15 accepted for filing on or after the effective date of this Act. An
16 application for a water right or an amendment to a permit, certified
17 filing, or certificate of adjudication authorizing an interbasin
18 transfer of water that is accepted for filing before the effective
19 date of this Act is governed by the law in effect at the time the
20 application is accepted for filing, and the former law is continued
21 in effect for that purpose.

22 SECTION 4. This Act takes effect September 1, 2005.