

## **BILL ANALYSIS**

C.S.H.B. 1803  
By: Gonzales  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In the 79th Regular Legislative Session, H.B. 2898 was filed in an attempt to create a mechanism by which irrigation water is converted and sold to municipalities. At that time, there were still portions of the legislation that were not yet agreed to by both the irrigation districts and the municipal water suppliers. Since then, committees composed of irrigators and municipalities were formed and met regularly over the last two years to devise statutory language that would be acceptable to both sides. C.S.H.B. 1803 is the result of compromise between the irrigation districts and the municipal water suppliers.

C.S.H.B. 1803 provides a manner by which water rights on subdivided land are converted from irrigation to municipal use. This bill is limited to districts located wholly or partly in a county that borders the Gulf of Mexico and the International Border or in a county adjacent to such a county.

### **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**

C.S.H.B. 1803 adds subchapter O to Chapter 49, Water Code. Section 1 deals with the effect of the subdivision of urban non-agricultural land on water rights by adding sections 49.502 – 49.512 of the Texas Water Code which provide how water districts and municipal water suppliers change the purpose of use of previous irrigation rights to municipal use water rights. Sections 2 of the Bill provides that this legislation applies only to a subdivision for which a plat or map has been recorded in the office of the County Clerk of a County on or after the effective date of the Act. Section 1 of the Act adds provisions to Chapter 49 of the Texas Water Code as follows:

- Section 49.501 defines a “municipal water supplier” as a municipality or a water supply corporation.
- Section 49.502 provides that the Act only applies to a water district located wholly or partly in a county that borders the Gulf of Mexico, and Mexico or a county which is adjacent to such a county.
- Section 49.503 provides that a municipal water supplier may petition a water district to convert irrigation water previously used to irrigate land in an urban subdivision served by the municipal supplier to municipal use purposes under rules, regulations, and law applicable to such water right uses. The municipal supplier must file this petition not later than January 1 two years following the actual recording of the subdivision plat in the county records, and must identify the subdivision by name. The district must consider the petition no later than January 31 of the year after the petition is filed. The petition can be filed one time only, and this provision does not apply to any further subdivision of the same land.
- Section 49.504 provides that if the municipal water supplier does not file such a petition within the required period of time that the water district may continued to use the water rights for its purposes or declare the water as excess and contract for the sale or use of the water within or outside the defined area provided the water district gives ninety (90) days notice to all

other municipal water suppliers in the defined area of the terms and conditions by which such water rights or water may be sold and transferred elsewhere. The notice requirements are defined in the section.

- Section 49.505 of the Act pertains to how a water district will calculate the proportionate amount of water rights allocable to the subdivision in question.
- Section 49.506 of the Act provides how a water district can provide the water rights, or water allocations. The rights or water can be provided from either its existing municipal use allocations, or through an amendment of the rights through necessary proceedings before the Texas Commission on Environmental Quality (“TCEQ”). The water district may continue to use the irrigation water until the TCEQ approves the amendment to its water rights, or water is otherwise made available to the municipal water supplier. If the water district has to apply to the TCEQ for an amendment to its water rights then the municipal water supplier will pay for the necessary expenses incurred in the TCEQ amendment process for the change of purpose of use of the water rights from irrigation use to municipal use.
- Section 49.507 provides that if a petition is filed, that the municipal water supplier may purchase the water rights for sixty-eight percent (68%) of the current market value of the water rights determined by the regional water authority, and the parties will enter into a document entitled as “Water Rights Sales Contract” containing the statutory terms. The purchase price is paid when the water is made available to the municipal water supplier.
- Section 49.508 provides that the municipal supplier may enter into a “Water Supply Contract” with the water district to provide the water for at least forty (40) years. The amount paid by the municipal supplier on an annual basis per municipal use acre feet is equivalent to what the water district annually would assess on a flat rate basis charge per flat rate irrigable acre in the water district, plus the equivalent of four (4) times the delivery charge charged irrigators in the district, as determined by the board of directors of the water district from time to time.
- Section 49.509 provides that it is a duty of the Rio Grande Regional Water Authority to calculate the current market value of water rights at its January meeting each year based upon the last three (3) purchases involving the sale of water rights to municipal suppliers of at least one hundred (100) acre feet in sales excluding transactions between one municipal water supplier and another municipal water supplier. These values are determined by water Supply Contracts or Water Rights Contracts filed with the Rio Grande Watermaster as required by the Act.
- Section 49.510 of the Act requires a water district to maintain accounting of money received from the sale of water rights.
- Section 49.511 requires a water district to designate at least seventy-five percent (75%) of the proceeds from the sale of water rights for capital improvements in the district.
- Section 49.512 requires a water district to provide a map of its outer boundaries to a municipal water supplier upon request, and that a municipal water supplier will provide a map of its CCN service area upon the request of a water district.

#### **EFFECTIVE DATE**

September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute contains mostly non substantive changes to clarify and preserve legislative intent. It also adds a provision in SECTION 1, Sec. 49.503 that requires districts to consider petitions no later than January 31 of the year after the petition is filed.