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S.B. No. 847

A BILL TO BE ENTITLED

AN ACT

relating to the conversion of certain water rights on subdivided land from irrigation to municipal use.

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

SECTION 1. Chapter 49, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. EFFECT OF SUBDIVISION OF NONAGRICULTURAL LAND ON WATER RIGHTS

Sec. 49.501. DEFINITION. In this subchapter, "municipal water supplier" means a municipality or a water supply corporation.

Sec. 49.502. APPLICABILITY. This subchapter applies only to a district, other than a drainage district, located wholly or partly in a county:

(1) that borders the Gulf of Mexico and the United Mexican States; or

(2) that is adjacent to a county described by Subdivision (1).

Sec. 49.503. PETITION BY MUNICIPAL WATER SUPPLIER TO CONVERT WATER USE AFTER SUBDIVISION. (a) This section applies only to land:

(1) that is:

(A) subdivided into town lots or blocks or small parcels of the same general nature as town lots or blocks;

(B) designed, intended, or suitable for

1 residential or other nonagricultural purposes, including streets,
2 alleys, parkways, parks, detention or retention ponds, and railroad
3 property and rights-of-way; or

4 (C) in a subdivision created to meet the
5 requirements of a governmental entity authorized to require a
6 recorded plat of subdivided lands;

7 (2) that is in a subdivision for which a plat or map
8 has been filed and recorded in the office of the county clerk of
9 each county in which the subdivision is wholly or partly located;
10 and

11 (3) that is or was assessed as flat rate irrigable
12 property in the municipal water supplier's certificated service
13 area or its corporate area.

14 (b) A municipal water supplier that serves land described by
15 Subsection (a) may petition the district in accordance with this
16 section to convert the proportionate irrigation water right to the
17 Rio Grande from irrigation use to municipal use with municipal
18 priority of allocation under commission rules, for the use and
19 benefit of the municipal supplier.

20 (c) The municipal water supplier must file the petition with
21 the district not later than January 1 after the expiration of two
22 years after the date the plat or map was recorded under Subsection
23 (a). The district shall consider the petition not later than
24 January 31 of the year following the year in which the petition was
25 filed.

26 (d) The petition must identify by subdivision name or other
27 sufficient description the land that the municipal water supplier

1 supplies or has the right to supply potable water.

2 (e) This section applies only to one subdivision of the land
3 recorded under Subsection (a). This section does not apply to any
4 further subdivision of the same property.

5 Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE
6 TO FILE A PETITION. (a) If a municipal water supplier does not
7 file a petition under Section 49.503, the district may retain the
8 water rights for use by the district or may declare the water as
9 excess and contract for the sale or use of the water as determined
10 by the district.

11 (b) Before a district may contract for the sale or use of
12 water for more than one year with a purchaser located outside of a
13 county described by Section 49.502, the district must, for 90 days:

14 (1) make the water available under the same terms to
15 all municipal water suppliers located in those counties; and

16 (2) advertise the offer to sell or contract for the use
17 of the water by posting notice on:

18 (A) any website of the Rio Grande Watermaster's
19 Office;

20 (B) any website of the Rio Grande Regional Water
21 Authority; and

22 (C) the official posting place for the district's
23 board meetings at the district's office.

24 (c) If, after the 90th day after the last date on which the
25 district posted notice, a municipal water supplier in a county
26 described by Section 49.502 has not contracted with the district
27 for the sale or use of the water, the district may contract with any

1 other person for the sale or use of the water under the terms of the
2 offer advertised under Subsection (b).

3 Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A
4 district that receives a petition under Section 49.503 shall
5 compute the proportionate amount of water rights to the Rio Grande.
6 The proportionate amount of water rights is equal to the amount of
7 irrigable acres of land in the subdivision multiplied by the lesser
8 of:

9 (1) 1.25 acre-feet per irrigable acre; or

10 (2) the sum of all irrigation water rights owned by the
11 district on September 1, 2007, as if the water rights had been
12 converted to municipal use under applicable commission rules,
13 divided by the total amount of irrigable acres of land in the
14 district on September 1, 2007.

15 Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE WATER
16 RIGHTS BY DISTRICT. (a) Not later than the second anniversary of
17 the date the municipal water supplier files a petition under
18 Section 49.503:

19 (1) a district shall provide the municipal water
20 supplier with the proportionate water rights described by Section
21 49.505 from the district's existing water rights; or

22 (2) a district shall, if the district does not have
23 sufficient existing water rights:

24 (A) apply for appropriate amendments to the
25 district's water rights under commission rules to convert the
26 proportionate water rights from irrigation use to municipal use
27 with municipal priority of allocation; and

1 (B) provide to the municipal water supplier the
2 converted rights described by Section 49.505.

3 (b) The district may continue to use the irrigation use
4 water for district purposes until:

5 (1) the commission approves the amendment to the
6 district's water rights; or

7 (2) the water is otherwise provided to the municipal
8 water supplier.

9 (c) A district that applies for appropriate amendments
10 under Subsection (a)(2) shall provide the municipal water supplier
11 with an estimate of the district's reasonable costs for the
12 administrative proceedings. The district is not required to begin
13 the proceedings until the municipal water supplier deposits the
14 amount of the estimate with the district. The municipal water
15 supplier shall pay the district any reasonable costs that exceed
16 the estimate. The district shall refund the balance of the deposit
17 if the actual cost is less than the estimate.

18 Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER
19 RIGHTS; WATER RIGHTS SALE CONTRACT. (a) A municipal water
20 supplier may contract to purchase the proportionate water rights
21 described by Section 49.505.

22 (b) The purchase price may not exceed 68 percent of the
23 current market value, as determined under Section 49.509, for the
24 year that the municipal water supplier petitions the district.

25 (c) The contract must be in writing in a document entitled
26 "Water Rights Sales Contract."

27 (d) The contract must include the purchase price for the

1 water rights or, if the consideration for the sale is not monetary,
2 the terms of the sale.

3 (e) The municipal water supplier shall file the contract
4 with the Rio Grande watermaster not later than the 10th day after
5 the date the contract is executed.

6 (f) The municipal water supplier shall pay the purchase
7 price when the proportionate amount of water rights is made
8 available to the municipal water supplier.

9 Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS;
10 WATER SUPPLY CONTRACT. (a) A municipal water supplier may
11 contract to use water associated with the proportionate water
12 rights described by Section 49.505.

13 (b) The contract must be for at least 40 years.

14 (c) The price for the contractual right to use the municipal
15 use water is based on an amount for one acre-foot of municipal use
16 water with a municipal use priority of allocation and may not exceed
17 the sum of:

18 (1) an amount equal to the district's annual flat rate
19 charge per assessed acre; and

20 (2) the equivalent of the charge for four irrigations
21 per flat rate acre of irrigable property in the district.

22 (d) The parties to the contract shall agree on the terms of
23 payment of the contract price.

24 (e) The board periodically shall determine the flat rate
25 charge and irrigation per acre charge described by Subsection (c).

26 (f) The contract must be in writing in a document entitled
27 "Water Supply Contract." The contract may contain any terms to

1 which the parties agree.

2 (g) The municipal water supplier shall file the contract
3 with the Rio Grande watermaster not later than the 10th day after
4 the date the contract is executed.

5 Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY TO
6 CALCULATE CURRENT MARKET VALUE. (a) The Rio Grand Regional Water
7 Authority annually at its January meeting shall calculate the
8 current market value by using the average price per acre-foot of
9 municipal use water after conversion from irrigation use water to
10 municipal use water with a municipal priority of allocation under
11 commission rules of the last three purchases involving:

- 12 (1) a municipal water supplier;
13 (2) a party other than a municipal water supplier; and
14 (3) at least 100 acre-feet of municipal use water,
15 with municipal priority of allocation.

16 (b) The Rio Grande Regional Water Authority shall use
17 information from the water rights sales contracts reported to the
18 Rio Grande Watermaster's Office to calculate the current market
19 value.

20 (c) The Rio Grande Regional Water Authority shall make the
21 calculation:

- 22 (1) without charging any of the parties involved; and
23 (2) using 100 percent of the value of monetary
24 exchanges, not in-kind exchanges.

25 Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. A
26 district shall maintain an accounting of money received from the
27 sale of water rights under this subchapter.

1 Sec. 49.511. CAPITAL IMPROVEMENTS. A district shall
2 designate at least 75 percent of the proceeds from the sale of water
3 rights for capital improvements in the district.

4 Sec. 49.512. MAP OF SERVICE AREA. (a) In this section,
5 "outer boundaries of a district" means district boundaries without
6 considering any exclusion of land from inside the district.

7 (b) Each municipal water supplier that has a certificate of
8 convenience and necessity service area in the outer boundaries of a
9 district shall file a map of the service area with the district.

10 (c) The municipal water supplier shall update the map and
11 forward the map to the district when changes are made.

12 (d) A district periodically shall provide to a municipal
13 water supplier that serves territory in the district a copy of the
14 district's map showing the outer boundaries of the district.

15 (e) A district may request from a municipal water supplier a
16 map of the municipal suppliers's service area, and a municipal
17 water supplier may request from the district a map of the district's
18 outer boundaries. On request, the district and a municipal water
19 supplier shall provide the map free of charge to each other at least
20 one time each year. If the district or municipal water supplier
21 receives more than one request a year for a map, the district or
22 municipal water supplier may charge a reasonable fee for the map.

23 SECTION 2. The change in law made by this Act applies only to
24 a subdivision for which a plat or map has been recorded in the
25 office of the county clerk of a county on or after the effective
26 date of this Act. A subdivision for which a plat or map was recorded
27 before the effective date of this Act is covered by the law in

1 effect on the date the plat or map was recorded, and the former law
2 is continued in effect for that purpose.

3 SECTION 3. This Act takes effect September 1, 2007.