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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 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 that:

(1) has been subdivided into town lots or blocks, or small parcels of the same general nature as the town lots or blocks;

(2) is designed, intended, or suitable for residential or other nonagricultural purposes, including streets, alleys, parkways, parks, detention or retention ponds, and railroad

1 property and rights-of-way;

2 (3) is in a subdivision for which a plat or map has
3 been filed and recorded in the office of the county clerk of each
4 county in which the subdivision is wholly or partly located,
5 including a subdivision created to meet the requirements of a
6 governmental entity authorized to require a recorded plat of
7 subdivided lands; and

8 (4) is or was assessed as flat rate irrigable property
9 with a potable water supply or that includes part of the subdivided
10 land in the municipal water supplier's certificated service area or
11 its corporate area.

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

19 (c) The municipal water supplier must file the petition with
20 the district not later than January 1 after the expiration of two
21 years after the date the plat or map was recorded under Subsection
22 (a).

23 (d) The petition must identify by subdivision name or other
24 sufficient description the land that the municipal supplier
25 supplies or has the right to supply potable water.

26 (e) This section applies only to one subdivision of the land
27 recorded under Subsection (a). This section does not apply to any

1 further subdivision of the same property.

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

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

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

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

14 (A) any website of the Rio Grande Watermaster's
15 Office;

16 (B) any website of the Rio Grande Regional Water
17 Authority; and

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

20 (c) If, after the 90th day after the last date on which the
21 district posted notice, a municipal water supplier in a county
22 described by Section 49.502 has not contracted with the district
23 for the sale or use of the water, the district may contract with any
24 other person for the sale or use of the water under the terms of the
25 offer advertised under Subsection (b).

26 Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A
27 district that receives a petition under Section 49.503 shall

1 compute the proportionate amount of water rights to the Rio Grande
2 previously associated with the subdivided land. The proportionate
3 amount of water rights is equal to the amount of irrigable acres of
4 land in the subdivision multiplied by the lesser of:

5 (1) 1.25 acre-feet per irrigable acre; or

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

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

15 (1) a district that provides the municipal water
16 supplier with the proportionate water rights described by Section
17 49.505 from the district's existing water rights shall provide the
18 water rights to the municipal supplier; and

19 (2) a district that does not have sufficient existing
20 water rights shall apply for appropriate amendments to the
21 district's water rights under commission rules to convert the
22 proportionate water rights from irrigation use to municipal use
23 with municipal priority of allocation.

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

26 (1) the commission approves the amendment to the
27 district's water rights; or

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

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

12 Sec. 49.507. CONTRACT BY MUNICIPAL WATER SUPPLIER TO
13 PURCHASE PROPORTIONATE WATER RIGHTS; WATER RIGHTS SALE CONTRACT.

14 (a) A municipal water supplier may contract to purchase the
15 proportionate water rights described by Section 49.505.

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

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

21 (d) The contract must include the purchase price for the
22 water rights or, if the consideration for the sale is not monetary,
23 the terms of the sale.

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

27 (f) The municipal water supplier shall pay the purchase

1 price when the proportionate amount of water rights is made
2 available to the municipal water supplier.

3 Sec. 49.508. CONTRACT BY MUNICIPAL WATER SUPPLIER TO USE
4 PROPORTIONATE WATER RIGHTS; WATER SUPPLY CONTRACT. (a) A
5 municipal water supplier may contract to use the proportionate
6 water rights described by Section 49.505.

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

8 (c) The price for the contractual right to receive the
9 municipal use water is based on an amount equal to one acre-foot of
10 municipal use water with a municipal use priority of allocation and
11 may not exceed the sum of:

12 (1) an amount equal to one acre-foot of the municipal
13 use water with a municipal use priority of allocation; and

14 (2) the district's annual flat rate charge per flat
15 rate acre plus the equivalent of the delivery charge for four
16 irrigations per flat rate acre of irrigable property in the
17 district.

18 (d) The board periodically shall determine the flat rate
19 charge described by Subsection (c).

20 (e) The contract must be in writing in a document entitled
21 "Water Supply Contract."

22 (f) The municipal water supplier shall file the contract
23 with the Rio Grande watermaster not later than the 10th day after
24 the date the contract is executed.

25 Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY TO
26 CALCULATE CURRENT MARKET VALUE. (a) The Rio Grande Regional Water
27 Authority annually at its January meeting shall calculate the

1 current market value by using the average price per acre-foot of
2 municipal use water after conversion from irrigation use water to
3 municipal use water with a municipal priority of allocation under
4 commission rules of the last three purchases involving:

- 5 (1) a municipal water supplier;
6 (2) a party other than a municipal water supplier; and
7 (3) at least 100 acre-feet of municipal use, with
8 municipal priority of allocation.

9 (b) The Rio Grande Regional Water Authority shall use the
10 water rights reported to the Rio Grande Watermaster's Office to
11 calculate the current market value.

12 (c) The Rio Grande Regional Water Authority shall make the
13 calculation:

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

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

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

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

26 (b) Each municipal water supplier that has a certificate of
27 convenience and necessity service area in the outer boundaries of a

1 district shall file a map of the service area with the district.

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

4 (d) A district periodically shall provide to a municipal
5 supplier that serves territory in the district a copy of the
6 district's map showing the outer boundaries of the district.

7 (e) A district may request from a municipal water supplier a
8 map of the municipal supplier's service area, and a municipal water
9 supplier may request from the district a map of the district's outer
10 boundaries. On request, the district and a municipal water
11 supplier shall provide the map free of charge to each other at least
12 one time each year. If the district or municipal water supplier
13 receives more than one request a year for a map, the district or
14 municipal water supplier may charge a reasonable fee for the map.

15 SECTION 2. The change in law made by this Act applies only
16 to a subdivision for which a plat or map has been recorded in the
17 office of the county clerk of a county on or after the effective
18 date of this Act. A subdivision for which a plat or map was recorded
19 before the effective date of this Act is covered by the law in
20 effect on the date the plat or map was recorded, and the former law
21 is continued in effect for that purpose.

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