

1-1 By: Hinojosa, Lucio S.B. No. 847
1-2 (In the Senate - Filed February 23, 2007; March 7, 2007,
1-3 read first time and referred to Committee on Natural Resources;
1-4 April 11, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 11, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 847 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the conversion of certain water rights on subdivided
1-11 land from irrigation to municipal use.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 49, Water Code, is amended by adding
1-14 Subchapter O to read as follows:

1-15 SUBCHAPTER O. EFFECT OF SUBDIVISION OF NONAGRICULTURAL LAND ON
1-16 WATER RIGHTS

1-17 Sec. 49.501. DEFINITION. In this subchapter, "municipal
1-18 water supplier" means a municipality or a water supply corporation.

1-19 Sec. 49.502. APPLICABILITY. This subchapter applies only
1-20 to a district, other than a drainage district, located wholly or
1-21 partly in a county:

1-22 (1) that borders the Gulf of Mexico and the United
1-23 Mexican States; or

1-24 (2) that is adjacent to a county described by
1-25 Subdivision (1).

1-26 Sec. 49.503. PETITION BY MUNICIPAL WATER SUPPLIER TO
1-27 CONVERT WATER USE AFTER SUBDIVISION. (a) This section applies
1-28 only to land:

1-29 (1) that is:

1-30 (A) subdivided into town lots or blocks or small
1-31 parcels of the same general nature as town lots or blocks;

1-32 (B) designed, intended, or suitable for
1-33 residential or other nonagricultural purposes, including streets,
1-34 alleys, parkways, parks, detention or retention ponds, and railroad
1-35 property and rights-of-way; or

1-36 (C) in a subdivision created to meet the
1-37 requirements of a governmental entity authorized to require a
1-38 recorded plat of subdivided lands;

1-39 (2) that is in a subdivision for which a plat or map
1-40 has been filed and recorded in the office of the county clerk of
1-41 each county in which the subdivision is wholly or partly located;
1-42 and

1-43 (3) that is or was assessed as flat rate irrigable
1-44 property in the municipal water supplier's certificated service
1-45 area or its corporate area.

1-46 (b) A municipal water supplier that serves land described by
1-47 Subsection (a) may petition the district in accordance with this
1-48 section to convert the proportionate irrigation water right to the
1-49 Rio Grande from irrigation use to municipal use with municipal
1-50 priority of allocation under commission rules, for the use and
1-51 benefit of the municipal supplier.

1-52 (c) The municipal water supplier must file the petition with
1-53 the district not later than January 1 after the expiration of two
1-54 years after the date the plat or map was recorded under Subsection
1-55 (a). The district shall consider the petition not later than
1-56 January 31 of the year following the year in which the petition was
1-57 filed.

1-58 (d) The petition must identify by subdivision name or other
1-59 sufficient description the land that the municipal water supplier
1-60 supplies or has the right to supply potable water.

1-61 (e) This section applies only to one subdivision of the land
1-62 recorded under Subsection (a). This section does not apply to any
1-63 further subdivision of the same property.

2-1 Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE
2-2 TO FILE A PETITION. (a) If a municipal water supplier does not
2-3 file a petition under Section 49.503, the district may retain the
2-4 water rights for use by the district or may declare the water as
2-5 excess and contract for the sale or use of the water as determined
2-6 by the district.

2-7 (b) Before a district may contract for the sale or use of
2-8 water for more than one year with a purchaser located outside of a
2-9 county described by Section 49.502, the district must, for 90 days:

2-10 (1) make the water available under the same terms to
2-11 all municipal water suppliers located in those counties; and

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

2-14 (A) any website of the Rio Grande Watermaster's
2-15 Office;

2-16 (B) any website of the Rio Grande Regional Water
2-17 Authority; and

2-18 (C) the official posting place for the district's
2-19 board meetings at the district's office.

2-20 (c) If, after the 90th day after the last date on which the
2-21 district posted notice, a municipal water supplier in a county
2-22 described by Section 49.502 has not contracted with the district
2-23 for the sale or use of the water, the district may contract with any
2-24 other person for the sale or use of the water under the terms of the
2-25 offer advertised under Subsection (b).

2-26 Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A
2-27 district that receives a petition under Section 49.503 shall
2-28 compute the proportionate amount of water rights to the Rio Grande.
2-29 The proportionate amount of water rights is equal to the amount of
2-30 irrigable acres of land in the subdivision multiplied by the lesser
2-31 of:

2-32 (1) 1.25 acre-feet per irrigable acre; or

2-33 (2) the sum of all irrigation water rights owned by the
2-34 district on September 1, 2007, as if the water rights had been
2-35 converted to municipal use under applicable commission rules,
2-36 divided by the total amount of irrigable acres of land in the
2-37 district on September 1, 2007.

2-38 Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE WATER
2-39 RIGHTS BY DISTRICT. (a) Not later than the second anniversary of
2-40 the date the municipal water supplier files a petition under
2-41 Section 49.503:

2-42 (1) a district shall provide the municipal water
2-43 supplier with the proportionate water rights described by Section
2-44 49.505 from the district's existing water rights; or

2-45 (2) a district shall, if the district does not have
2-46 sufficient existing water rights:

2-47 (A) apply for appropriate amendments to the
2-48 district's water rights under commission rules to convert the
2-49 proportionate water rights from irrigation use to municipal use
2-50 with municipal priority of allocation; and

2-51 (B) provide to the municipal water supplier the
2-52 converted rights described by Section 49.505.

2-53 (b) The district may continue to use the irrigation use
2-54 water for district purposes until:

2-55 (1) the commission approves the amendment to the
2-56 district's water rights; or

2-57 (2) the water is otherwise provided to the municipal
2-58 water supplier.

2-59 (c) A district that applies for appropriate amendments
2-60 under Subsection (a)(2) shall provide the municipal water supplier
2-61 with an estimate of the district's reasonable costs for the
2-62 administrative proceedings. The district is not required to begin
2-63 the proceedings until the municipal water supplier deposits the
2-64 amount of the estimate with the district. The municipal water
2-65 supplier shall pay the district any reasonable costs that exceed
2-66 the estimate. The district shall refund the balance of the deposit
2-67 if the actual cost is less than the estimate.

2-68 Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER
2-69 RIGHTS; WATER RIGHTS SALE CONTRACT. (a) A municipal water

3-1 supplier may contract to purchase the proportionate water rights
 3-2 described by Section 49.505.

3-3 (b) The purchase price may not exceed 68 percent of the
 3-4 current market value, as determined under Section 49.509, for the
 3-5 year that the municipal water supplier petitions the district.

3-6 (c) The contract must be in writing in a document entitled
 3-7 "Water Rights Sales Contract."

3-8 (d) The contract must include the purchase price for the
 3-9 water rights or, if the consideration for the sale is not monetary,
 3-10 the terms of the sale.

3-11 (e) The municipal water supplier shall file the contract
 3-12 with the Rio Grande watermaster not later than the 10th day after
 3-13 the date the contract is executed.

3-14 (f) The municipal water supplier shall pay the purchase
 3-15 price when the proportionate amount of water rights is made
 3-16 available to the municipal water supplier.

3-17 Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS;
 3-18 WATER SUPPLY CONTRACT. (a) A municipal water supplier may
 3-19 contract to use water associated with the proportionate water
 3-20 rights described by Section 49.505.

3-21 (b) The contract must be for at least 40 years.

3-22 (c) The price for the contractual right to use the municipal
 3-23 use water is based on an amount for one acre-foot of municipal use
 3-24 water with a municipal use priority of allocation and may not exceed
 3-25 the sum of:

3-26 (1) an amount equal to the district's annual flat rate
 3-27 charge per assessed acre; and

3-28 (2) the equivalent of the charge for four irrigations
 3-29 per flat rate acre of irrigable property in the district.

3-30 (d) The parties to the contract shall agree on the terms of
 3-31 payment of the contract price.

3-32 (e) The board periodically shall determine the flat rate
 3-33 charge and irrigation per acre charge described by Subsection (c).

3-34 (f) The contract must be in writing in a document entitled
 3-35 "Water Supply Contract." The contract may contain any terms to
 3-36 which the parties agree.

3-37 (g) The municipal water supplier shall file the contract
 3-38 with the Rio Grande watermaster not later than the 10th day after
 3-39 the date the contract is executed.

3-40 Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY TO
 3-41 CALCULATE CURRENT MARKET VALUE. (a) The Rio Grand Regional Water
 3-42 Authority annually at its January meeting shall calculate the
 3-43 current market value by using the average price per acre-foot of
 3-44 municipal use water after conversion from irrigation use water to
 3-45 municipal use water with a municipal priority of allocation under
 3-46 commission rules of the last three purchases involving:

3-47 (1) a municipal water supplier;

3-48 (2) a party other than a municipal water supplier; and

3-49 (3) at least 100 acre-feet of municipal use water,
 3-50 with municipal priority of allocation.

3-51 (b) The Rio Grande Regional Water Authority shall use
 3-52 information from the water rights sales contracts reported to the
 3-53 Rio Grande Watermaster's Office to calculate the current market
 3-54 value.

3-55 (c) The Rio Grande Regional Water Authority shall make the
 3-56 calculation:

3-57 (1) without charging any of the parties involved; and

3-58 (2) using 100 percent of the value of monetary
 3-59 exchanges, not in-kind exchanges.

3-60 Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. A
 3-61 district shall maintain an accounting of money received from the
 3-62 sale of water rights under this subchapter.

3-63 Sec. 49.511. CAPITAL IMPROVEMENTS. A district shall
 3-64 designate at least 75 percent of the proceeds from the sale of water
 3-65 rights for capital improvements in the district.

3-66 Sec. 49.512. MAP OF SERVICE AREA. (a) In this section,
 3-67 "outer boundaries of a district" means district boundaries without
 3-68 considering any exclusion of land from inside the district.

3-69 (b) Each municipal water supplier that has a certificate of

4-1 convenience and necessity service area in the outer boundaries of a
4-2 district shall file a map of the service area with the district.

4-3 (c) The municipal water supplier shall update the map and
4-4 forward the map to the district when changes are made.

4-5 (d) A district periodically shall provide to a municipal
4-6 water supplier that serves territory in the district a copy of the
4-7 district's map showing the outer boundaries of the district.

4-8 (e) A district may request from a municipal water supplier a
4-9 map of the municipal suppliers's service area, and a municipal
4-10 water supplier may request from the district a map of the district's
4-11 outer boundaries. On request, the district and a municipal water
4-12 supplier shall provide the map free of charge to each other at least
4-13 one time each year. If the district or municipal water supplier
4-14 receives more than one request a year for a map, the district or
4-15 municipal water supplier may charge a reasonable fee for the map.

4-16 SECTION 2. The change in law made by this Act applies only to
4-17 a subdivision for which a plat or map has been recorded in the
4-18 office of the county clerk of a county on or after the effective
4-19 date of this Act. A subdivision for which a plat or map was recorded
4-20 before the effective date of this Act is covered by the law in
4-21 effect on the date the plat or map was recorded, and the former law
4-22 is continued in effect for that purpose.

4-23 SECTION 3. This Act takes effect September 1, 2007.

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