

By: Hegar

S.B. No. 1714

A BILL TO BE ENTITLED

AN ACT

relating to the evidence of beneficial use in the permitting of groundwater.

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

SECTION 1. Section 36.001, Water Code is amended by adding Subsection (30) to read as follows:

(30) "Evidence of beneficial use" means evidence that is material and relevant to a determination of the amount of groundwater which will be beneficially used without waste by a permit applicant. Evidence may be in the form of a demonstration of a statutory requirement to provide continuous and adequate water service or a contractual obligation for the use of the water which can be reasonably performed within months/years of the issuance of the permit.

SECTION 2. Section 36.119, Water Code is amended by adding Subsection (i) to read as follows:

(i) A district shall not grant a permit unless the applicant has provided evidence of beneficial use.

SECTION 3. Section 36.122, Water Code is amended by amending Subsections (f) and (i) and adding Subsections (r), (s), and (t) to read as follows:

(f) In reviewing a proposed transfer of groundwater out of the district, the district shall consider:

(1) the availability of water in the district and in

1 the proposed receiving area during the period for which the water  
2 supply is requested;

3 (2) the projected effect of the proposed transfer on  
4 aquifer conditions, depletion, subsidence, or effects on existing  
5 permit holders or other groundwater users within the district; and

6 (3) the [~~approved regional water plan and~~] certified  
7 management plan.

8 (i) The period specified by Subsection (h) (2) shall be:

9 (1) at least two [~~three~~] years if substantial  
10 construction of a conveyance system has not been initiated  
11 commenced prior to the issuance of the permit; or

12 (2) at least 30 years if substantial construction of a  
13 conveyance system has been initiated prior to the issuance of the  
14 permit.

15 (r) If a permit is for the transfer groundwater outside of  
16 the district for municipal use, substantial construction of the  
17 proposed facilities to transport the groundwater shall begin within  
18 two years after the date the permit is issued.

19 (s) A district shall deny a permit to transfer groundwater  
20 outside of the district for municipal use unless the municipal use  
21 is part of a water supply project which is included in the approved  
22 regional water plan.

23 (t) A person with a legally defined interest in the  
24 groundwater in a management area has standing to file suit against a  
25 district in the management area to challenge a determination made  
26 by a district, including a permit renewal, that a contract which  
27 forms the basis for the issuance of a transportation permit can be

1 reasonably performed as written or that substantial construction of  
2 the proposed facilities to transport groundwater has occurred  
3 within the time periods required by this section.

4         SECTION 4. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2009.