

1-1 By: Averitt S.B. No. 2318
1-2 (In the Senate - Filed March 18, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 15, 2009, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 15, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the use and management of surface water resources.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 11.002, Water Code, is amended by
1-11 amending Subdivision (1) and adding Subdivision (7) to read as
1-12 follows:

1-13 (1) "Commission" means the Texas [~~Natural Resource~~
1-14 ~~Conservation~~] Commission on Environmental Quality.

1-15 (7) "Developed water" means:

1-16 (A) groundwater that is in a watercourse or
1-17 stream, that would not be in the watercourse or stream but for the
1-18 efforts of the developer, and that is intended for subsequent
1-19 diversion and use by the developer;

1-20 (B) surface water obtained through an approved
1-21 interbasin transfer of water that is in a watercourse or stream,
1-22 that would not be in the watercourse or stream but for the efforts
1-23 of the developer, and that is intended for subsequent diversion and
1-24 use by the developer;

1-25 (C) waters imported from another state; and

1-26 (D) waters originating in the bays or arms of the
1-27 Gulf of Mexico.

1-28 SECTION 2. Subsection (e), Section 11.023, Water Code, is
1-29 amended to read as follows:

1-30 (e) The amount of water appropriated for each purpose
1-31 mentioned in this section shall be specifically appropriated,
1-32 stored, or diverted for that purpose, subject to the preferences
1-33 prescribed in Section 11.024 of this code. The commission may
1-34 authorize appropriation of a single amount or volume of water for
1-35 more than one purpose of use. In the event that a single amount or
1-36 volume of water is appropriated for more than one purpose of use,
1-37 the total amount of water actually diverted for all of the
1-38 authorized purposes may not exceed the total amount of water
1-39 appropriated.

1-40 SECTION 3. Subsection (b), Section 11.042, Water Code, is
1-41 amended to read as follows:

1-42 (b) A person who wishes to discharge and then subsequently
1-43 divert and reuse the person's existing return flows derived from
1-44 developed water [~~privately owned groundwater~~] must obtain prior
1-45 authorization from the commission for the diversion and the reuse
1-46 of these return flows. The authorization may allow for the
1-47 diversion and reuse by the discharger of existing return flows,
1-48 less carriage losses, and shall be subject to special conditions if
1-49 necessary to protect an existing water right that was granted based
1-50 on the use or availability of these return flows. Special
1-51 conditions may also be provided to help maintain instream uses and
1-52 freshwater inflows to bays and estuaries. A person wishing to
1-53 divert and reuse future increases of return flows derived from
1-54 developed water [~~privately owned groundwater~~] must obtain
1-55 authorization to reuse increases in return flows before the
1-56 increase.

1-57 SECTION 4. Subsection (c), Section 11.126, Water Code, is
1-58 amended to read as follows:

1-59 (c) If the application proposes construction of a dam
1-60 greater than six feet in height measured from the channel invert
1-61 elevation to the top of the dam either for diversion or storage, the
1-62 executive director may also require filing a copy of all plans and
1-63 specifications and a copy of the engineer's field notes of any
1-64 survey of the lake or reservoir. No work on the project shall

2-1 proceed until approval of the plans is obtained from the executive
2-2 director.

2-3 SECTION 5. This Act takes effect September 1, 2009.

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