

BILL ANALYSIS

C.S.H.B. 3234
By: Ritter
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that current law does not provide a complete and consolidated statutory timeframe for processing and reviewing an application for a permit to use state water or a permit amendment. C.S.H.B. 3234 seeks to address this issue by establishing provisions relating to the procedure for action by the Texas Commission on Environmental Quality on an application for a water right.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 and 3 of this bill.

ANALYSIS

SECTION 1. Adds Section 11.129, Water Code, as follows:

Sec. 11.129. New Heading: REVIEW OF APPLICATION. (a) Provides that in this section:

(1) Defines "administratively complete" to mean an application includes the information and fees required under Sections 11.124, 11.125, 11.1271, and 11.128 and, if applicable, Sections 11.126, 11.127, and 11.1272.

(2) Defines "technical review" to mean the part of the process of reviewing an application after the executive director has determined the application is administratively complete in which technical material is analyzed and reviewed in order to prepare a draft permit and draft notice.

(b) Requires the executive director, not later than the 30th working day after the date the executive director receives an application, to review the application and provide to the applicant:

(1) written notice that the application is administratively complete; or

(2) a written request for information that describes in detail the information that the applicant must provide in order for the application to be considered administratively complete.

(c) Requires the applicant, not later than the 30th day after the date an applicant receives a request under Subsection (b)(2), to submit a response to the request. Requires the executive director, not later than the 30th working day after the date the executive director receives a timely response, to review the response and provide to the applicant:

(1) written notice that the application is administratively complete; or

(2) a written request for information that describes in detail the information that the applicant must provide in order for the application to be considered administratively complete.

(d) Provides that the applicant may request an extension of the time to submit a response to a request under Subsection (b)(2) or (c)(2). Requires the executive director to grant the request if the applicant demonstrates good cause for the extension. Provides that an extension under this subsection extends the deadline provided by Subsection (e) by the same amount of time as the amount of the extension.

(e) Requires the executive director, not later than the 180th day after the date the executive director receives the application, to:

(1) provide the applicant written notice that the application is administratively complete; or

(2) return the application and the entire filing fee to the applicant and provide the applicant with a list of the deficiencies in the application.

(f) Provides that the applicant is entitled to appeal the return of the application and dispute an application deficiency in a hearing before the commission. Requires the commission to review the application and related documents, rule on the issues presented at the hearing, and issue an order:

(1) directing the executive director to return the application to the applicant;

(2) requesting additional information as required by the executive director to render the application administratively complete; or

(3) declaring that the application is administratively complete and scheduling the technical review of the application.

(g) Requires the applicant, if the commission requests additional information from the applicant under Subsection (f)(2), to provide the information to the commission not later than the 30th day after the date the commission issues the request. Requires the commission to review the material and issue an order described by Subsection (f)(1) or (3), as applicable.

(h) Requires the executive director, after the executive director or the commission determines that the application is administratively complete, to conduct a technical review of the application. Requires the executive director, as part of the review, to determine whether the applicable water conservation, drought contingency, and water management plans under Sections 11.1271, 11.1272, and 11.1273 are adequate.

(i) Requires the executive director, not later than the 180th day after the date on which the technical review begins, to provide the applicant with:

(1) written notice that the technical review is complete, a draft permit, a draft notice, and technical memoranda associated with the application; or

(2) a written request for technical information as determined by the executive director to be necessary for the completion of the technical review.

(j) Authorizes the executive director, with notice to the applicant, to extend the deadline provided by Subsection (i) for a period of 30 days. Prohibits the executive director from extending the deadline more than three times.

(k) Requires the applicant, not later than the 60th day after the date the applicant receives a request under Subsection (i)(2), to provide the requested information to the executive director.

(l) Provides that the applicant may request an extension of the time to submit a response to a request under Subsection (i)(2). Requires the executive director to grant the request if the applicant demonstrates good cause for the extension. Provides that an extension under this subsection extends the deadline provided by Subsection (n) by the same amount of time as the amount of the extension.

(m) Requires the executive director, not later than the 60th day after the date the executive director receives a timely response to a request under Subsection (i)(2), to review the response and provide the applicant with:

(1) written notice that the technical review is complete, a draft permit, a draft notice, and technical memoranda associated with the application; or

(2) written notice that the response to the request for technical information is deficient.

(n) Requires the executive director and the applicant, if the executive director provides notice under Subsection (m)(2), to collaborate in a good faith effort to resolve the deficiency. Requires the executive director, not later than the 180th day after the date the executive director provides the notice, to:

(1) provide the applicant with written notice that the technical review is complete, a draft permit, a draft notice, and technical memoranda associated with the application; or

(2) return the application and the use fee and the unused portion of the notice fee as prescribed by commission rule to the applicant and provide the applicant with a list of the deficiencies with the application.

(o) Provides that the applicant is entitled to appeal the return of the application and dispute an application deficiency in a hearing before the commission. Requires the commission to review the application and related documents, rule on the issues presented at the hearing, and issue an order:

(1) directing the executive director to return the application to the applicant;

(2) requesting additional information as required by the commission; or

(3) requiring the executive director to prepare the draft permit, draft notice, and technical memoranda associated with the application and written notice that the technical review is complete.

(p) Requires the applicant, if the commission requests additional information from the applicant under Subsection (o)(2), to provide the information to the commission not later than the 30th day after the date the commission issues the request. Requires the commission to review the material and issue an order described by Subsection (o)(1) or (3), as applicable.

(q) Provides that the applicant may request an extension of the time to submit a response to a request under Subsection (o)(2). Requires the commission to grant the request if the applicant demonstrates good cause for the extension. Provides that an extension under this subsection extends the deadline provided by Subsection (p) by the same amount of time as the amount of the extension.

(r) Requires the applicant, not later than the 14th day after the date the applicant receives the draft permit, draft notice, and technical memoranda associated with the application, to provide the executive director with:

(1) the applicant's comments on the draft permit, draft notice, and technical memoranda; or

(2) a statement that the applicant has no comment on the draft permit, draft notice, or technical memoranda.

(s) Provides that the applicant may request an extension of the time to submit comments under Subsection (r)(1). Requires the commission to grant the request if the applicant demonstrates good cause for the extension. Provides that an extension under this

subsection extends the deadline provided by Subsection (r) by the same amount of time as the amount of the extension.

(t) Requires the executive director to file the draft permit, draft notice, and technical memoranda associated with the application with the chief clerk of the commission:

(1) not later than the 14th day after the date the executive director receives comments under Subsection (r)(1), during which time the executive director and the applicant must collaborate to address the comments; or

(2) immediately on receipt of a statement described by Subsection (r)(2).

(u) Requires that the executive director, notwithstanding any other provision of this section, if the executive director makes a written determination that notice is not required for an application, to grant or deny the permit for which the application is filed not later than the 300th day after the date the executive director receives the application. Provides that this period be extended by the same amount of time as the amount of any extension of time granted to the applicant for the provision of information.

Strikes a provision stating that the commission is required to determine whether the application, maps, and other materials comply with the requirements of this chapter and the rules of the commission. Strikes a provision stating that the commission is authorized to require amendment of the application, maps, or other materials to achieve necessary compliance.

SECTION 2. Amends Section 11.133, Water Code, as follows:

Sec. 11.133. HEARING. (a) Requires the commission, at the time and place stated in the notice, to hold a hearing on the application. Provides that any person may appear at the hearing in person or by attorney or may enter an appearance in writing. Provides that any person who appears may present objection to the issuance of the permit. Authorizes the commission to receive evidence, orally or by affidavit, in support of or in opposition to the issuance of the permit, and to hear arguments.

(b) Prohibits the commission from referring an issue regarding an application to the State Office of Administrative Hearings for a hearing unless the commission determines that the issue is:

(1) a disputed question of fact; and

(2) relevant and material to a decision on the application.

(c) Requires the commission, if the commission grants a request for a hearing, to:

(1) determine the number and scope of issues to be referred to the State Office of Administrative Hearings for a hearing; and

(2) consistent with the nature and number of issues to be considered at the hearing, specify the maximum expected duration of the hearing, which may not exceed a period of 270 days.

(d) Provides that the commission, if the application has been determined to be administratively complete and the time for requesting more information under Section 11.129(i)(2) has expired:

(1) may not revoke that determination; and

(2) may request additional information from the applicant only if the information is necessary to clarify, modify, or supplement previously submitted information.

(e) Provides that a request for information under Subsection (d)(2) does not

render the application administratively incomplete.

(f) Prohibits the administrative law judge who conducts the hearing, if the commission refers an issue regarding an application to the State Office of Administrative Hearings for a hearing, from granting party status to a person who failed to seek party status from the commission before the issue was referred to the office.

(g) Provides that, in the event of a conflict between this section and any other law, this section prevails.

Makes nonsubstantive changes.

SECTION 3. (a) Requires the Texas Commission on Environmental Quality (TCEQ), as soon as practicable after the effective date of this Act, to adopt rules to implement the changes in law made by this Act.

(b) Provides that the changes in law made by this Act apply only to an application for a new or amended water right filed with the TCEQ on or after the effective date of the rules adopted under Subsection (a) of this section. Provides that an application filed before the effective date of the rules adopted under Subsection (a) of this section is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(c) Authorizes the executive director of TCEQ, on notice to the applicant, beginning on the effective date of the rules adopted under Subsection (a) of this section, to extend the period for technical review of an application for a new or amended water right under Section 11.129, Water Code, as amended by this Act, by a period not to exceed 18 months from the date the rules take effect if:

(1) on the effective date of the rules there are applications for new or amended water rights pending before the commission the technical review of which has not been completed; and

(2) the applications described by Subdivision (1) affect the same river basin as the application for which the technical review period is extended.

(d) Requires the executive director, during an extension under Subsection (c) of this section, to take all practicable measures to substantially meet all other applicable deadlines in Section 11.129, Water Code, as amended by this Act, related to the technical review of an application.

SECTION 4. Provides for the effective date of this Act.

EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, this Act takes effect September 1, 2013.

COMPARISON OF ORIGINAL TO SUBSTITUTE

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1281 to read as follows:

SECTION 1. Section 11.129, Water Code, is amended to read as follows:

Sec. 11.1281. TIME FOR PROCESSING APPLICATIONS FOR PERMITS AND PERMIT AMENDMENTS FOR WATER RIGHTS. (a) In this section:

Sec. 11.129. REVIEW OF APPLICATION; ~~AMENDMENT~~. (a) In this section:

(1) "Administratively complete" means the

(1) "Administratively complete" means an

application includes the information required under Sections 11.124, 11.125, and 11.128 of this code and commission rules. If the application includes an agricultural use, the application must also include the information required by Sections 11.126 and 11.127 of this code. Submission of applicable water conservation and drought contingency plans under Sections 11.1271, 11.1272, and 11.1273 is also required, but the adequacy of these plans is not to be evaluated until the technical review of the application.

(2) "Technical review" means the application review process performed after the executive director has determined the application is administratively complete, in which technical material is analyzed and reviewed in order to prepare a draft permit and draft notice based on the technical information associated with the application.

(b) Within 30 working days of receipt of an application for a permit or permit amendment by the executive director, the executive director shall review the application and provide to the applicant:

(1) written notice that the application is administratively complete; or

(2) a written request for information detailing all information that must be provided for the application to be administratively complete.

(c) The applicant has 30 days to submit a response to a request for information. Upon receipt of a timely response, within 30 working days the executive director shall review the response and provide the applicant:

(1) written notice that the application is administratively complete; or

(2) a written request for information detailing all information that must be provided for the application to be deemed administratively complete.

(d) For good cause, an applicant may request additional time to respond to a request for information and the Commission shall grant such request. The time periods specified in subsection (e) for determining the application to be administratively complete shall be abated for the additional period of time authorized by the Commission.

(e) If an application has not been deemed administratively complete within 180 days of receipt of an application by the executive

application includes the information and fees required under Sections 11.124, 11.125, 11.1271, and 11.128 and, if applicable, Sections 11.126, 11.127, and 11.1272.

(2) "Technical review" means the part of the process of reviewing an application after the executive director has determined the application is administratively complete in which technical material is analyzed and reviewed in order to prepare a draft permit and draft notice.

(b) Not later than the 30th working day after the date the executive director receives an application, the executive director shall review the application and provide to the applicant:

(1) written notice that the application is administratively complete; or

(2) a written request for information that describes in detail the information that the applicant must provide in order for the application to be considered administratively complete.

(c) Not later than the 30th day after the date an applicant receives a request under Subsection (b)(2), the applicant must submit a response to the request. Not later than the 30th working day after the date the executive director receives a timely response, the executive director shall review the response and provide to the applicant:

(1) written notice that the application is administratively complete; or

(2) a written request for information that describes in detail the information that the applicant must provide in order for the application to be considered administratively complete.

(d) The applicant may request an extension of the time to submit a response to a request under Subsection (b)(2) or (c)(2). The executive director shall grant the request if the applicant demonstrates good cause for the extension. An extension under this subsection extends the deadline provided by Subsection (e) by the same amount of time as the amount of the extension.

(e) Not later than the 180th day after the date the executive director receives the application, the executive director shall:

director, the executive director shall

No equivalent provision.

return the application, return all fees, and provide the applicant with a list of all deficiencies with the application.

The applicant is entitled to appeal the return of the application and dispute the application deficiencies in a hearing before the commission. The commission will review the application, rule on the issues presented at the hearing, and issue an order:

(1) returning the application, unless the applicant, within 30 days, or within an additional time period requested by the applicant and granted by the commission, provides the additional information the commission has determined is required to make the application administratively complete; or

(2) declaring that the application is administratively complete with a time schedule for conducting the technical review of the application.

No equivalent provision.

(f) After an application is determined by the executive director to be administratively complete, the executive director shall commence a technical review of the application as necessary and appropriate. The technical review will continue for a period of time not to exceed 180 days.

(g) During any time within the 180 day technical review period, if the executive director determines that additional technical information is required from the applicant, the executive director shall provide to the applicant a written request for such additional technical information.

(1) provide the applicant written notice that the application is administratively complete; or

(2) return the application and the entire filing fee to the applicant and provide the applicant with a list of the deficiencies in the application.

(f) The applicant is entitled to appeal the return of the application and dispute an application deficiency in a hearing before the commission. The commission shall review the application and related documents, rule on the issues presented at the hearing, and issue an order:

(1) directing the executive director to return the application to the applicant;

(2) requesting additional information as required by the executive director to render the application administratively complete; or

(3) declaring that the application is administratively complete and scheduling the technical review of the application.

(g) If the commission requests additional information from the applicant under Subsection (f)(2), the applicant must provide the information to the commission not later than the 30th day after the date the commission issues the request. The commission shall review the material and issue an order described by Subsection (f)(1) or (3), as applicable.

(h) After the executive director or the commission determines that the application is administratively complete, the executive director shall conduct a technical review of the application. As part of the review, the executive director shall determine whether the applicable water conservation, drought contingency, and water management plans under Sections 11.1271, 11.1272, and 11.1273 are adequate.

(i) Not later than the 180th day after the date on which the technical review begins, the executive director shall provide the applicant with:

(1) written notice that the technical review is complete, a draft permit, a draft notice, and technical memoranda associated with the application; or

(2) a written request for technical information as determined by the executive director to be necessary for the completion of the technical review.

Formerly part of Subsection 11.1281(i)(2) below.

(h) The applicant has 30 days to submit a response to a request for technical information.

Formerly part of Subsection 11.1281(i)(1) below.

Within 60 days following an applicant's timely response, the executive director shall review the response and provide the applicant:

- (1) the draft permit, draft notice, and technical memoranda associated with the application and written notice that the technical review is complete; or
- (2) written notice that the response to request for technical information was not adequate.

(i) (1) For good cause, an applicant may request additional time to respond to a request for technical information and the Commission shall grant such request. The time periods specified herein for the technical review of the application shall be abated for the additional period of time authorized by the Commission.

(2) For good cause, the executive director may, with notice to the applicant, extend the time to complete the technical review for 30 days. The executive director may not extend the time to complete the technical review more than three times. The time period specified herein for the commission's technical review of the application shall be abated for the additional period of time.

Formerly part of Subsection 11.1281(k) below.

(j) With notice to the applicant, the executive director may extend the deadline provided by Subsection (i) for a period of 30 days. The executive director may not extend the deadline more than three times.

(k) Not later than the 60th day after the date the applicant receives a request under Subsection (i)(2), the applicant must provide the requested information to the executive director.

(l) The applicant may request an extension of the time to submit a response to a request under Subsection (i)(2). The executive director shall grant the request if the applicant demonstrates good cause for the extension. An extension under this subsection extends the deadline provided by Subsection (n) by the same amount of time as the amount of the extension.

(m) Not later than the 60th day after the date the executive director receives a timely response to a request under Subsection (i)(2), the executive director shall review the response and provide the applicant with:

- (1) written notice that the technical review is complete, a draft permit, a draft notice, and technical memoranda associated with the application; or
- (2) written notice that the response to the request for technical information is deficient.

Now part of Subsection 11.129(l) above.

Now part of Subsection 11.129(j) above.

(n) If the executive director provides notice under Subsection (m)(2), the executive director and the applicant must collaborate in a good faith effort to resolve the deficiency. Not later than the 180th day after the date the executive director provides the notice, the executive director shall:

(j) At the conclusion of the technical review period, the executive director shall provide the applicant with the draft permit, draft notice, and technical memoranda associated with the application and written notice that the technical review is complete.

(k) If a response to a request for technical information is deemed not adequate by the executive director, the applicant and the executive director will have 180 days to collaborate in good faith efforts to resolve the inadequacy. If the executive director determines that the application is still inadequate at the end of this time period, the executive director shall return the application, return all fees, and provide the applicant with a list of all deficiencies with the application.

The applicant is entitled to appeal the return of the application and dispute the application deficiencies in a hearing before the commission. The commission will review the application, rule on the issues presented at the hearing, and issue an order:

(1) returning the application, unless the applicant, within 30 days, or within an additional time period requested by the applicant and granted by the commission, provides the additional information the commission has determined is required to complete the technical review; or

(2) requiring the executive director to prepare the draft permit, draft notice, and technical memoranda associated with the application and written notice that the technical review is complete.

No equivalent provision.

(l) Not later than 14 days after receipt of the draft permit, draft notice, and technical memoranda associated with the application, the applicant shall provide to the executive director:

(1) the applicant's comments to the draft permit, draft notice, and technical memoranda associated with the application; or

(2) a statement that indicates that the applicant has no comments.

(m) For good cause, an applicant may request additional time to provide comments to the

(1) provide the applicant with written notice that the technical review is complete, a draft permit, a draft notice, and technical memoranda associated with the application; or

Now part of Subsection 11.129(n) above.

(2) return the application and the use fee and the unused portion of the notice fee as prescribed by commission rule to the applicant and provide the applicant with a list of the deficiencies with the application.

(o) The applicant is entitled to appeal the return of the application and dispute an application deficiency in a hearing before the commission. The commission shall review the application and related documents, rule on the issues presented at the hearing, and issue an order:

(1) directing the executive director to return the application to the applicant;

(2) requesting additional information as required by the commission; or

(3) requiring the executive director to prepare the draft permit, draft notice, and technical memoranda associated with the application and written notice that the technical review is complete.

(p) If the commission requests additional information from the applicant under Subsection (o)(2), the applicant must provide the information to the commission not later than the 30th day after the date the commission issues the request. The commission shall review the material and issue an order described by Subsection (o)(1) or (3), as applicable.

Now part of Subsection 11.129(r) below.

(q) The applicant may request an extension of the time to submit a response to a request

draft permit, draft notice, and technical memoranda, and the Commission shall grant such request. The time periods specified herein for processing the application shall be abated for the additional period of time authorized by the Commission.

Formerly part of Subsection 11.1281(l) above.

No equivalent provision.

(n) The executive director shall file the draft permit, draft notice, and technical memoranda with the chief clerk of the commission:

(1) after 14 days if the applicant submits comments, during which time the executive director and the applicant shall collaborate to address the comments; or

(2) immediately upon receipt of a statement by the applicant that there are no comments to the draft permit, draft notice, and technical memoranda associated with the application.

(o) Notwithstanding the provisions within subsections (a) through (n) of this section, if the executive director is in receipt of an application for which it makes a written determination that published and mailed notice is not required, the executive director shall grant or deny the application within a total time period not to exceed 300 days following the receipt of the application. The 300 day time period shall not include additional time requested by the applicant for responding to requests for information.

SECTION 2. Section 11.133, Water Code, is

under Subsection (o)(2). The commission shall grant the request if the applicant demonstrates good cause for the extension. An extension under this subsection extends the deadline provided by Subsection (p) by the same amount of time as the amount of the extension.

(r) Not later than the 14th day after the date the applicant receives the draft permit, draft notice, and technical memoranda associated with the application, the applicant must provide the executive director with:

(1) the applicant's comments on the draft permit, draft notice, and technical memoranda;

or
(2) a statement that the applicant has no comment on the draft permit, draft notice, or technical memoranda.

(s) The applicant may request an extension of the time to submit comments under Subsection (r)(1). The commission shall grant the request if the applicant demonstrates good cause for the extension. An extension under this subsection extends the deadline provided by Subsection (r) by the same amount of time as the amount of the extension.

(t) The executive director shall file the draft permit, draft notice, and technical memoranda associated with the application with the chief clerk of the commission:

(1) not later than the 14th day after the date the executive director receives comments under Subsection (r)(1), during which time the executive director and the applicant must collaborate to address the comments; or

(2) immediately on receipt of a statement described by Subsection (r)(2).

(u) Notwithstanding any other provision of this section, if the executive director makes a written determination that notice is not required for an application, the executive director shall grant or deny the permit for which the application is filed not later than the 300th day after the date the executive director receives the application. This period shall be extended by the same amount of time as the amount of any extension of time granted to the applicant for the provision of information [The commission shall determine whether the application, maps, and other materials comply with the requirements of this chapter and the rules of the commission. The commission may require amendment of the application, maps, or other materials to achieve necessary compliance].

SECTION 2. Section 11.133, Water Code, is

amended to read as follows:

Sec. 11.133. HEARING. (a) At the time and place stated in the notice, the commission shall hold a hearing on the application. Any person may appear at the hearing in person or by attorney or may enter his appearance in writing. Any person who appears may present objection to the issuance of the permit. The commission may receive evidence, orally or by affidavit, in support of or in opposition to the issuance of the permit, and it may hear arguments.

(b) If the commission determines that a public hearing must be held pursuant to Section 11.132, it shall:

- (1) limit the number and scope of issues to be referred to the State Office of Administrative Hearings for a hearing; and
- (2) consistent with the nature and number of issues to be considered at the hearing, specify the maximum expected duration of the hearing.

(c) The commission may not refer an issue to the State Office of Administrative Hearings for a hearing unless the commission determines that the issue:

- (1) involves a disputed question of fact; and
- (2) is relevant and material to the decision on the application.

Formerly part of Subsection 11.1281(b) above.

(d) Once an application has been declared administratively complete by the commission pursuant to Section 11.129 of this Chapter and has become the subject of a hearing:

- (1) the commission may not revoke the determination that an application is administratively or technically complete;
- (2) the commission may request additional information from the applicant only if the information is necessary to clarify, modify, or supplement previously submitted material; and

(3) a request for additional information does not render the application incomplete.

(e) In a hearing on an application pursuant to this Chapter that is referred to the State Office of Administrative Hearings, an administrative law judge may not grant party status to a

amended to read as follows:

Sec. 11.133. HEARING. (a) At the time and place stated in the notice, the commission shall hold a hearing on the application. Any person may appear at the hearing in person or by attorney or may enter an [his] appearance in writing. Any person who appears may present objection to the issuance of the permit. The commission may receive evidence, orally or by affidavit, in support of or in opposition to the issuance of the permit, and it may hear arguments.

Now part of Subsection 11.129(c) below.

(b) The commission may not refer an issue regarding an application to the State Office of Administrative Hearings for a hearing unless the commission determines that the issue is:

- (1) a disputed question of fact; and
- (2) relevant and material to a decision on the application.

(c) If the commission grants a request for a hearing, the commission shall:

- (1) determine the number and scope of issues to be referred to the State Office of Administrative Hearings for a hearing; and
- (2) consistent with the nature and number of issues to be considered at the hearing, specify the maximum expected duration of the hearing, which may not exceed a period of 270 days.

(d) If the application has been determined to be administratively complete and the time for requesting more information under Section 11.129(i)(2) has expired, the commission:

- (1) may not revoke that determination; and
- (2) may request additional information from the applicant only if the information is necessary to clarify, modify, or supplement previously submitted information.

(e) A request for information under Subsection (d)(2) does not render the application administratively incomplete.

(f) If the commission refers an issue regarding an application to the State Office of Administrative Hearings for a hearing, the administrative law judge who conducts the

person that:
(1) was denied party status by the commission prior to referral; or
(2) failed to timely seek party status at the commission.

(f) This provisions of this section shall supersede any conflicting provisions of law currently in effect.

SECTION 3.
No equivalent provision.

The change in law made by this Act applies only to an application for a permit filed with the Texas Commission on Environmental Quality on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the prior law is continued in effect for that purpose.

No equivalent provision.

No equivalent provision.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the

hearing may not grant party status to a person who failed to seek party status from the commission before the issue was referred to the office.

(g) In the event of a conflict between this section and any other law, this section prevails.

SECTION 3.
(a) As soon as practicable after the effective date of this Act, the Texas Commission on Environmental Quality shall adopt rules to implement the changes in law made by this Act.

(b) The changes in law made by this Act apply only to an application for a new or amended water right filed with the Texas Commission on Environmental Quality on or after the effective date of the rules adopted under Subsection (a) of this section. An application filed before the effective date of the rules adopted under Subsection (a) of this section is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(c) On notice to the applicant, beginning on the effective date of the rules adopted under Subsection (a) of this section, the executive director of the Texas Commission on Environmental Quality may extend the period for technical review of an application for a new or amended water right under Section 11.129, Water Code, as amended by this Act, by a period not to exceed 18 months from the date the rules take effect if:
(1) on the effective date of the rules there are applications for new or amended water rights pending before the commission the technical review of which has not been completed; and
(2) the applications described by Subdivision (1) affect the same river basin as the application for which the technical review period is extended.

(d) During an extension under Subsection (c) of this section, the executive director shall take all practicable measures to substantially meet all other applicable deadlines in Section 11.129, Water Code, as amended by this Act, related to the technical review of an application.

SECTION 4. Same as introduced.

vote necessary for immediate effect, this Act takes effect September 1, 2013.