By: Ritter, Johnson, Taylor H.B. No. 3233
(Senate Sponsor - Fraser)

(In the Senate - Received from the House May 8, 2013; May 9, 2013, read first time and referred to Committee on Natural Resources; May 15, 2013, reported favorably by the following vote: Yeas 11, Nays 0; May 15, 2013, sent to printer.)

COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|---|---|---|---|---|
| Fraser | X | | | |
| Estes | X | | | |
| Deuell | X | | | |
| Duncan | X | | | |
| Ellis | X | | | |
| Eltife | X | | | |
| Hegar | X | | | |
| Hinojosa | X | | | |
| Nichols | X | | | |
| Seliger | X | | | |
| Uresti | X | | | |

A BILL TO BE ENTITLED
AN ACT

relating to interbasin transfers of state water.

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

SECTION 1. Sections 11.085(b), (e), (g), (l), (n), and (v), Water Code, are amended to read as follows:

(b) The application must include:

(1) the contract price of the water to be transferred;

(2) a statement of each general category of proposed use of the water to be transferred and a detailed description of the proposed uses and users under each category; and

(3) the cost of diverting, conveying, distributing, and supplying the water to, and treating the water for, the proposed users[~~; and~~

[~~(4) the projected effect on user rates and fees for each class of ratepayers~~].

(e) In addition to the public meetings required by Subsection (d) [~~of this section~~], if the application is contested in a manner requiring an evidentiary hearing under the rules of the commission, the commission shall give notice and hold an evidentiary hearing, in accordance with commission rules and applicable state law. An evidentiary hearing on an application to transfer water authorized under an existing water right is limited to considering issues related to the requirements of this section.

(g) The applicant shall cause the notice of application for an interbasin transfer to be published in two different weeks within a 30-day period [~~once a week for two consecutive weeks~~] in one or more newspapers having general circulation in each county located in whole or in part in the basin of origin or the receiving basin. The published notice may not be smaller than 96.8 square centimeters or 15 square inches with the shortest dimension at least 7.6 centimeters or three inches. The notice of application and public meetings shall be combined in the mailed and published notices.

(l) The commission may grant, in whole or in part, an application for an interbasin transfer only to the extent that:

(1) the detriments to the basin of origin during the proposed transfer period are less than the benefits to the receiving basin during the proposed transfer period, as determined by the commission based on consideration of the factors described by Subsection (k); and

(2) the applicant for the interbasin transfer has

prepared a drought contingency plan and has developed and implemented a water conservation plan that will result in the highest practicable levels of water conservation and efficiency achievable within the jurisdiction of the applicant.

(n) If the transfer of water is based on a contractual sale of water, the new water right or amended permit, certified filing, or certificate of adjudication authorizing the transfer shall contain a condition for a term or period not greater than the term of the contract, including any extension or renewal of the contract [~~term~~].

(v) The provisions of this section, except Subsection (a), do not apply to:

(1) a proposed transfer which in combination with any existing transfers totals less than 3,000 acre-feet of water per annum from the same permit, certified filing, or certificate of adjudication;

(2) a request for an emergency transfer of water;

(3) a proposed transfer from a basin to its adjoining coastal basin;

(4) a proposed transfer from the part of the geographic area of [~~a basin to~~] a county or municipality, or the part of the retail service area of a retail public utility as defined by Section 13.002, [~~the municipality's retail service area~~] that is [~~partially~~] within the basin of origin for use in that part of the geographic area of the county or municipality, or that contiguous part of the retail service area of the utility, [~~and the municipality's retail service area~~] not within the basin of origin; or

(5) a proposed transfer of water that is:

(A) imported from a source located wholly outside the boundaries of this state, except water that is imported from a source located in the United Mexican States;

(B) for use in this state; and

(C) transported by using the bed and banks of any flowing natural stream located in this state.

SECTION 2. The changes in law made by this Act apply only to an application for an interbasin transfer 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 former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

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