

SENATE AMENDMENTS

2nd Printing

By: Johnson

H.B. No. 2615

A BILL TO BE ENTITLED

AN ACT

1
2 relating to reporting and information availability requirements
3 for persons impounding, diverting, or otherwise using state water;
4 providing a penalty.

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

6 SECTION 1. Sections 11.031(b) and (d), Water Code, are
7 amended to read as follows:

8 (b) A person who fails to file an annual report with the
9 commission as required by Subsection (a) or fails to timely comply
10 with a request by the commission to make information available
11 under Subsection (d) [~~this section~~] is liable for [to] a penalty in
12 an amount not to exceed \$1,000 [of \$25, plus \$1] per day for each day
13 the person fails to file the statement or comply with the request
14 after the applicable deadline [~~he fails to file the statement after~~
15 March 1]. However, the maximum penalty under this section is
16 \$15,000 [~~\$150]~~. The state may sue to recover the penalty.

17 (d) Each person who has a water right issued by the
18 commission or who impounds, diverts, or otherwise uses state water
19 shall maintain water use information required under Subsection (a)
20 on a monthly basis during the months a water rights holder uses
21 permitted water. The person shall make the information available
22 to the commission on the commission's request. The executive
23 director shall establish a reasonable deadline by which a person
24 must make available information requested by the commission under

1 this subsection.

2 SECTION 2. Section 11.031, Water Code, as amended by this
3 Act, applies only to a report due or a request for information made
4 on or after the effective date of this Act. A report due or request
5 made before that date is governed by the law in effect on the date
6 the report is due or the request is made, and the former law is
7 continued in effect for that purpose.

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

ADOPTED

MAY 22 2013

Henry E. Cisneros
Secretary

By: Johnson / Fraser

H.B. No. 2015

Substitute the following for __.B. No. _____:

By: *[Signature]*

C.S. __.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the use of state water; providing a penalty.

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

SECTION 1. Section 11.031, Water Code, is amended by amending Subsections (b) and (d) and adding Subsections (b-1) and (g) to read as follows:

(b) A person who fails to file an annual report with the commission as required by Subsection (a) or fails to timely comply with a request by the commission to make information available under Subsection (d) ~~[this section]~~ is liable for ~~[to]~~ a penalty ~~[of \$25, plus \$1 per day]~~ for each day the person fails to file the statement or comply with the request after the applicable deadline in an amount not to exceed:

(1) \$100 per day if the person is the holder of a water right authorizing the appropriation of 5,000 acre-feet or less per year; or

(2) \$500 per day if the person is the holder of a water right authorizing the appropriation of more than 5,000 acre-feet per year ~~[he fails to file the statement after March 1. However, the maximum penalty under this section is \$150].~~

(b-1) The state may sue to recover a [the] penalty under Subsection (b).

(d) Each person who has a water right issued by the commission or who impounds, diverts, or otherwise uses state water

1 shall maintain water use information required under Subsection (a)
2 on a monthly basis during the months a water rights holder uses
3 permitted water. The person shall make the information available
4 to the commission on the commission's request. The executive
5 director shall establish a reasonable deadline by which a person
6 must make available information requested by the commission under
7 this subsection.

8 (g) The commission shall establish a process by which a
9 report required under Subsection (a) may be submitted
10 electronically through the Internet.

11 SECTION 2. Section 11.173(b), Water Code, is amended to
12 read as follows:

13 (b) A permit, certified filing, or certificate of
14 adjudication or a portion of a permit, certified filing, or
15 certificate of adjudication is exempt from cancellation under
16 Subsection (a):

17 (1) to the extent of the owner's participation in the
18 Conservation Reserve Program authorized by the Food Security Act,
19 Pub.L. No. 99-198, Secs. 1231-1236, 99 Stat. 1354, 1509-1514
20 (1985) or a similar governmental program;

21 (2) if a significant portion of the water authorized
22 to be used pursuant to a permit, certified filing, or certificate of
23 adjudication has been used in accordance with a specific
24 recommendation for meeting a water need included in the regional
25 water plan approved pursuant to Section 16.053;

26 (3) if the permit, certified filing, or certificate of
27 adjudication:

1 (A) was obtained to meet demonstrated long-term
2 public water supply or electric generation needs as evidenced by a
3 water management plan developed by the holder; and

4 (B) is consistent with projections of future
5 water needs contained in the state water plan;

6 (4) if the permit, certified filing, or certificate of
7 adjudication was obtained as the result of the construction of a
8 reservoir funded, in whole or in part, by the holder of the permit,
9 certified filing, or certificate of adjudication as part of the
10 holder's long-term water planning; or

11 (5) to the extent the nonuse resulted from:

12 (A) the implementation of water conservation
13 measures under a water conservation plan submitted by the holder of
14 the permit, certified filing, or certificate of adjudication as
15 evidenced by implementation reports submitted by the holder;

16 (B) a suspension, adjustment, or other
17 restriction on the use of the water authorized to be appropriated
18 under the permit, certified filing, or certificate of adjudication
19 imposed under an order issued by the executive director; or

20 (C) an inability to appropriate the water
21 authorized to be appropriated under the permit, certified filing,
22 or certificate of adjudication due to drought conditions.

23 SECTION 3. Section 11.031, Water Code, as amended by this
24 Act, applies only to a report due or a request for information made
25 on or after the effective date of this Act. A report due or request
26 made before that date is governed by the law in effect on the date
27 the report is due or the request is made, and the former law is

1 continued in effect for that purpose.

2 SECTION 4. This Act takes effect September 1, 2013.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 23, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2615 by Johnson (Relating to the use of state water; providing a penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would set penalties for a person failing to file a statement or comply with a request of the Texas Commission on Environmental Quality (TCEQ) for water use data relating to water rights after the applicable deadline of \$100 per day if the person holds a water right permit of 5,000 acre feet or less per year or \$500 per day if the person holds a water right for more than 5,000 acre feet per year. The TCEQ's executive director would establish a deadline by which a person must provide the information being requested. The bill would provide for reports to be submitted to the TCEQ electronically. The bill also would specify cases where water rights holders could seek exemptions to cancellation of permits based on nonuse, including cases where adjustments or suspensions are made by the TCEQ's executive director and due to drought conditions.

Penalties associated with failure to comply with TCEQ water rights reporting requirements would be deposited to the General Revenue Fund. Although passage of the bill could result in increased penalty revenues, this estimate assumes that the per-day penalty rate would serve as an incentive for compliance. Thus, no significant revenue increase to the state is expected. Passage of the bill is not expected to result in significant costs to the TCEQ.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

LBB Staff: UP, SD, SZ, TL

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 15, 2013

TO: Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2615 by Johnson (Relating to the use of state water; providing a penalty.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would set penalties for a person failing to file a statement or comply with a request of the Texas Commission on Environmental Quality (TCEQ) for water use data relating to water rights after the applicable deadline of \$100 per day if the person holds a water right permit of 5,000 acre feet or less per year or \$500 per day if the person holds a water right for more than 5,000 acre feet per year. The TCEQ's executive director would establish a deadline by which a person must provide the information being requested. The bill would provide for reports to be submitted to the TCEQ electronically. The bill also would specify cases where water rights holders could seek exemptions to cancellation of permits based on nonuse, including cases where adjustments or suspensions are made by the TCEQ's executive director and due to drought conditions.

Penalties associated with failure to comply with TCEQ water rights reporting requirements would be deposited to the General Revenue Fund. Although passage of the bill could result in increased penalty revenues, this estimate assumes that the per-day penalty rate would serve as an incentive for compliance. Thus, no significant revenue increase to the state is expected. Passage of the bill is not expected to result in significant costs to the TCEQ.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

LBB Staff: UP, SZ, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 13, 2013

TO: Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2615 by Johnson (Relating to reporting and information availability requirements for persons impounding, diverting, or otherwise using state water; providing a penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would set a penalty of \$1,000 for each day a person fails to file a statement or comply with the request of the Texas Commission on Environmental Quality (TCEQ) for water use data relating to water rights after the applicable deadline. The agency's executive director would establish a deadline by which a person must provide the information being requested. The maximum penalty which could be assessed would be \$15,000.

The deadline of March 1 and the other penalty references have been removed.

Penalties associated with failure to comply with TCEQ water rights reporting requirements would be deposited to the General Revenue Fund. Although passage of the bill could result in increased penalty revenues, this estimate assumes that the per-day penalty rate would serve as an incentive for compliance. Thus, no significant revenue increase to the state is expected. Passage of the bill is not expected to result in significant costs to the TCEQ.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

LBB Staff: UP, SZ, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 5, 2013

TO: Honorable Allan Ritter, Chair, House Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2615 by Johnson (Relating to reporting and information availability requirements for persons impounding, diverting, or otherwise using state water; providing a penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would increase the amount of penalty for persons failing to file annual water rights use reports or failing to comply with a Texas Commission on Environmental Quality (TCEQ) request for records to \$5,000 per day, which is an increase from the existing \$25 penalty with a \$1 per day penalty charge. The bill would require the TCEQ to establish a reasonable deadline for the water rights holder to respond with requested information.

Penalties associated with failure to comply with TCEQ water rights reporting requirements would be deposited to the General Revenue Fund. Although passage of the bill could result in increased penalty revenues, this estimate assumes that the per-day penalty rate would serve as an incentive for compliance. Thus, no significant revenue increase to the state is expected. Passage of the bill is not expected to result in significant costs to the TCEQ.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

LBB Staff: UP, SZ, TL