

**House Bill 2615**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Sections 11.031(b) and (d), Water Code, are amended 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 ~~for~~ a penalty in an amount not to exceed \$1,000 ~~[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 ~~[he fails to file the statement after March 1]~~.

However, the maximum penalty under this section is \$15,000 ~~[\$150]~~.

The state may sue to recover the penalty.

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

SENATE VERSION (CS)

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

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

CONFERENCE

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SENATE VERSION (CS)

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No equivalent provision.

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

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

(a):

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

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

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

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

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

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

(5) to the extent the nonuse resulted from:

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

(B) a suspension, adjustment, or other restriction on the use

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of the water authorized to be appropriated under the permit, certified filing, or certificate of adjudication imposed under an order issued by the executive director; or  
(C) an inability to appropriate the water authorized to be appropriated under the permit, certified filing, or certificate of adjudication due to drought conditions.

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

SECTION 3. Same as House version.

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

SECTION 4. Same as House version.