

By: Keffer

H.B. No. 2308

A BILL TO BE ENTITLED

AN ACT

relating to the consideration by the Texas Commission on Environmental Quality of the economic impact of an appropriation of state water in determining whether to grant an application for the appropriation.

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

SECTION 1. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1274 to read as follows:

Sec. 11.1274. ADDITIONAL REQUIREMENT: ECONOMIC IMPACT STUDY. The commission shall require from an applicant for a new or amended water right the formulation and submission of an economic impact study that assesses how approval or denial of the new or amended water right will economically impact affected communities.

SECTION 2. Section 11.134(b), Water Code, is amended to read as follows:

(b) The commission shall grant the application only if:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;

(2) unappropriated water is available in the source of supply;

(3) the proposed appropriation:

(A) is intended for a beneficial use;

(B) does not impair existing water rights or

1 vested riparian rights;

2 (C) is not detrimental to the public welfare;

3 (D) considers any applicable environmental flow
4 standards established under Section 11.1471 and, if applicable, the
5 assessments performed under Sections 11.147(d) and (e) and Sections
6 11.150, 11.151, ~~and~~ 11.152, and 11.1521; and

7 (E) addresses a water supply need in a manner
8 that is consistent with the state water plan and the relevant
9 approved regional water plan for any area in which the proposed
10 appropriation is located, unless the commission determines that
11 conditions warrant waiver of this requirement; and

12 (4) the applicant has provided evidence that
13 reasonable diligence will be used to avoid waste and achieve water
14 conservation as defined by Section 11.002(8)(B).

15 SECTION 3. Subchapter D, Chapter 11, Water Code, is amended
16 by adding Section 11.1521 to read as follows:

17 Sec. 11.1521. ASSESSMENT OF ECONOMIC IMPACT OF PERMITS OR
18 AMENDMENTS. (a) In its consideration of an application for a
19 permit to store, take, or divert water, or for an amendment to a
20 permit, certified filing, or certificate of adjudication, the
21 commission shall assess the economic impact, if any, of the
22 issuance or denial of the permit or amendment on any community
23 affected by the issuance or denial of the permit or amendment and
24 may require the applicant to take reasonable actions to mitigate
25 adverse economic impacts on affected communities if the permit or
26 amendment is issued. In determining whether to require an
27 applicant to mitigate the adverse economic impact of a project

1 authorized by a permit or amendment, the commission may consider
2 any net benefit produced by the project.

3 (b) For the purposes of Subsection (a), the commission shall
4 consider among other factors:

5 (1) the study submitted by the applicant under Section
6 11.1274; and

7 (2) any testimony provided at a hearing on the
8 application held under Section 11.133.

9 SECTION 4. The changes in law made by this Act apply only to
10 an application for a new or amended water right received by the
11 Texas Commission on Environmental Quality on or after the effective
12 date of this Act. An application received before the effective date
13 of this Act is governed by the law in effect on the date the
14 application was received, and the former law is continued in effect
15 for that purpose.

16 SECTION 5. This Act takes effect September 1, 2015.