

By: Larson

H.B. No. 3324

A BILL TO BE ENTITLED

AN ACT

relating to the requirements for obtaining an interbasin water transfer permit.

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

SECTION 1. Sections 11.085(d), (k), (l), and (v), Water Code, are amended to read as follows:

(d) Prior to taking action on an application for an interbasin transfer, the commission shall conduct at least one public meeting to receive comments in both the basin of origin of the water proposed for transfer and the basin receiving water from the proposed transfer. Notice shall be provided under Section 11.132 [~~pursuant to Subsection (g) of this section~~]. Any person may present relevant information and data at the meeting on the criteria which the commission is to consider related to the interbasin transfer.

(k) In addition to other requirements of this code relating to the review of and action on an application for a new water right or amended permit, certified filing, or certificate of adjudication, the commission shall weigh the effects of the proposed transfer by considering:

(1) the need for the water in the basin of origin and in the proposed receiving basin based on the period for which the water supply is requested, but not to exceed 50 years;

(2) factors identified in the applicable approved

1 regional water plans which address the following:

2 (A) the availability of feasible and practicable
3 alternative supplies in the receiving basin to the water proposed
4 for transfer;

5 (B) the amount and purposes of use in the
6 receiving basin for which water is needed;

7 (C) proposed methods and efforts by the receiving
8 basin to avoid waste and implement water conservation and drought
9 contingency measures;

10 (D) proposed methods and efforts by the receiving
11 basin to put the water proposed for transfer to beneficial use;

12 (E) the projected economic impact that is
13 reasonably expected to occur in each basin as a result of the
14 transfer; and

15 (F) the projected impacts of the proposed
16 transfer that are reasonably expected to occur on existing water
17 rights, instream uses, water quality, aquatic and riparian habitat,
18 and bays and estuaries that must be assessed under Sections [11.147](#),
19 [11.150](#), and [11.152](#) [~~of this code~~] in each basin. If the water
20 sought to be transferred is currently authorized to be used under an
21 existing permit, certified filing, or certificate of adjudication,
22 such impacts shall only be considered in relation to that portion of
23 the permit, certified filing, or certificate of adjudication
24 proposed for transfer and shall be based on historical uses of the
25 permit, certified filing, or certificate of adjudication for which
26 amendment is sought;

27 (3) [~~proposed mitigation or compensation, if any, to~~

1 ~~the basin of origin by the applicant,~~

2 ~~[(4)]~~ the continued need to use the water for the
3 purposes authorized under the existing permit, certified filing, or
4 certificate of adjudication, if an amendment to an existing water
5 right is sought; ~~and]~~

6 (4) the effect of the proposed transfer of water on
7 promoting the highest efficiency and productivity of water use in
8 this state; and

9 (5) the information required to be submitted by the
10 applicant.

11 (1) The commission may grant, in whole or in part, an
12 application for an interbasin transfer only to the extent that~~[-~~

13 ~~[(1) the detriments to the basin of origin during the~~
14 ~~proposed transfer period are less than the benefits to the~~
15 ~~receiving basin during the proposed transfer period, as determined~~
16 ~~by the commission based on consideration of the factors described~~
17 ~~by Subsection (k), and~~

18 ~~[(2)]~~ the applicant for the interbasin transfer has
19 prepared a drought contingency plan and has developed and
20 implemented a water conservation plan that will result in the
21 highest practicable levels of water conservation and efficiency
22 achievable within the jurisdiction of the applicant.

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

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

1 adjudication;

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

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

5 (4) a proposed transfer from the part of the
6 geographic area of a county or municipality, or the part of the
7 retail service area of a retail public utility as defined by Section
8 13.002, that is within the basin of origin for use in that part of
9 the geographic area of the county or municipality, or that
10 contiguous part of the retail service area of the utility, not
11 within the basin of origin; ~~or~~

12 (5) a proposed transfer of water that is:

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

16 (B) for use in this state;

17 (6) a proposed transfer of water resulting from
18 recycled or desalinated water produced in the basin of origin; or

19 (7) a proposed transfer of treated wastewater derived
20 from water that was transferred to the basin of origin of the
21 proposed transfer from the basin to which the effluent is returned

22 [~~and~~

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

25 SECTION 2. Sections 11.085(b), (c), (f), (g), (h), (i),
26 (j), and (o), Water Code, are repealed.

27 SECTION 3. (a) This Act applies only to an application for

1 a water right or an amendment to a permit, certified filing, or
2 certificate of adjudication authorizing an interbasin transfer of
3 water that is accepted for filing on or after the effective date of
4 this Act.

5 (b) An application for a water right or an amendment to a
6 permit, certified filing, or certificate of adjudication
7 authorizing an interbasin transfer of water that is accepted for
8 filing before the effective date of this Act is governed by the law
9 in effect at the time the application is accepted for filing, and
10 the former law is continued in effect for that purpose.

11 SECTION 4. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2015.