

By: Kolkhorst

S.B. No. 1936

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the recovery of damages resulting from an emergency
3 transfer of water authorized by the Texas Commission on
4 Environmental Quality.

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

6 SECTION 1. Section 11.139, Water Code, is amended by
7 amending Subsection (j) and adding Subsection (j-1) to read as
8 follows:

9 (j) The person granted an emergency authorization under
10 Subsection (h) [~~of this section~~] is liable to the owner and the
11 owner's agent or lessee from whom the use is transferred for the
12 fair market value of the water transferred as well as for any
13 damages caused by the transfer of use. If [~~, within 60 days of the~~
14 ~~termination of the authorization,~~] the parties do not agree on the
15 amount due, or if full payment is not made, either party may [~~file a~~
16 ~~complaint with the commission to determine the amount due. The~~
17 ~~commission may use dispute resolution procedures for a complaint~~
18 ~~filed under this subsection. After exhausting all administrative~~
19 ~~remedies under this subsection, an owner from whom the use is~~
20 ~~transferred may~~] file suit to [~~recover or~~] determine the amount due
21 in a district court in the county where the owner from whom the use
22 is transferred resides or has its headquarters. An owner from whom
23 the use is transferred may file suit to recover the amount due in a
24 district court in the county where the owner resides or has its

1 headquarters. The prevailing party in a suit filed under this
2 subsection is entitled to recover court costs and reasonable
3 attorney's fees.

4 (j-1) Subsection (j) applies to an owner from whom the use
5 is transferred under Subsection (h) regardless of whether the
6 owner's water right is subject to interruption or curtailment
7 during a period of drought.

8 SECTION 2. The change in law made by this Act applies only
9 to an application for an emergency authorization or renewal of an
10 emergency authorization that is submitted to the Texas Commission
11 on Environmental Quality on or after the effective date of this Act.
12 An application for an emergency authorization or renewal of an
13 emergency authorization that is submitted to the commission before
14 the effective date of this Act is governed by the law in effect
15 immediately before the effective date of this Act, and that law is
16 continued in effect for that purpose.

17 SECTION 3. This Act takes effect September 1, 2015.