

## **BILL ANALYSIS**

C.S.H.B. 2894  
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Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties suggest that seawater desalination could help ensure a future reliable water supply for the state. C.S.H.B. 2894 seeks to encourage the development and use of desalinated seawater by providing for expedited consideration of certain water right amendment applications.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2894 amends the Water Code to establish that a holder of a water right that begins using desalinated seawater after acquiring the water right has a right to expedited consideration of an application for an amendment to the water right if the amendment authorizes the applicant to divert water from a diversion point that is different from or in addition to the point or points from which the applicant was authorized to divert water before the requested amendment, authorizes the applicant to divert from the different or additional diversion point an amount of water that is equal to or less than the amount of desalinated seawater used by the applicant, authorizes the applicant to divert from all of the diversion points authorized by the water right an amount of water that is equal to or less than the amount of water the applicant was authorized to divert under the water right before the requested amendment, authorizes the applicant to divert water from all of the diversion points authorized by the water right at a combined rate that is equal to or less than the combined rate at which the applicant was authorized to divert water under the water right before the requested amendment, and does not authorize the water diverted from the different or additional diversion point to be transferred to another river basin. The bill requires the executive director of the Texas Commission on Environmental Quality (TCEQ) or TCEQ to prioritize the technical review of such an application over the technical review of applications that are not subject to these bill provisions.

C.S.H.B. 2894 amends the Government Code to require an administrative law judge, under provisions relating to hearings for TCEQ conducted by the State Office of Administrative Hearings (SOAH) and with regard to a matter pertaining to an application for an amendment to a water right for which the water right holder has a right to expedited consideration provided by the bill, to complete a proceeding and provide a proposal for decision to TCEQ not later than the 270th day after the date the matter was referred to SOAH. The bill authorizes the deadline to be extended by agreement of the parties with the approval of the administrative law judge or by the administrative law judge if the judge determines that failure to extend the deadline would unduly

deprive a party of due process or another constitutional right.

## EFFECTIVE DATE

September 1, 2017.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2894 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Section 11.122, Water Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) An existing water right holder that begins using desalinated seawater after acquiring the water right has a right to expedited consideration of an application for an amendment to the water right, provided that the amendment:

(1) authorizes the applicant to divert water from a diversion point that is different from or in addition to the point or points from which the applicant was authorized to divert water before the requested amendment;

(2) authorizes the applicant to divert from the different or additional diversion point an amount of water equal to or less than the amount of the desalinated seawater used by the water right holder;

(3) authorizes the applicant to divert from all of the diversion points authorized by the water right an amount of water equal to or less than the amount of water the applicant was authorized to divert under the water right before the requested amendment; and

(4) does not authorize the water diverted from the different or additional diversion point to be transferred to another river basin.

(b-2) For purposes of Subsection (b-1), expedited consideration of an application requires the executive director or the commission to prioritize the technical review of the application over the technical review of applications that are not subject to

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 11.122, Water Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) A holder of a water right that begins using desalinated seawater after acquiring the water right has a right to expedited consideration of an application for an amendment to the water right if the amendment:

(1) authorizes the applicant to divert water from a diversion point that is different from or in addition to the point or points from which the applicant was authorized to divert water before the requested amendment;

(2) authorizes the applicant to divert from the different or additional diversion point an amount of water that is equal to or less than the amount of desalinated seawater used by the applicant;

(3) authorizes the applicant to divert from all of the diversion points authorized by the water right an amount of water that is equal to or less than the amount of water the applicant was authorized to divert under the water right before the requested amendment;  
(4) authorizes the applicant to divert water from all of the diversion points authorized by the water right at a combined rate that is equal to or less than the combined rate at which the applicant was authorized to divert water under the water right before the requested amendment; and

(5) does not authorize the water diverted from the different or additional diversion point to be transferred to another river basin.

(b-2) The executive director or the commission shall prioritize the technical review of an application that is subject to Subsection (b-1) over the technical review of applications that are not subject to that subsection.

Subsection (b-1).

SECTION 2. Section 2003.047, Government Code, is amended.

SECTION 2. Substantially the same as introduced version.

SECTION 3. The changes in law made by this Act apply only to an application for an amendment to a water right that is filed with the Texas Commission on Environmental Quality on or after the effective date of this Act. An application filed with the commission before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. Same as introduced version.

SECTION 4. This Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.