

By: Frank

H.B. No. 3735

A BILL TO BE ENTITLED

1 AN ACT

2 relating to an application for a new or amended water right  
3 submitted to the Texas Commission on Environmental Quality.

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

5 SECTION 1. Sections 11.002(1) and (3), Water Code, are  
6 amended to read as follows:

7 (1) "Commission" means the Texas ~~[Natural Resource~~  
8 ~~Conservation]~~ Commission on Environmental Quality.

9 (3) "Executive director" means the executive director  
10 of the Texas ~~[Natural Resource Conservation]~~ Commission on  
11 Environmental Quality.

12 SECTION 2. Section 11.125(a), Water Code, is amended to  
13 read as follows:

14 (a) The application must be accompanied by a map or plat in  
15 the form and containing the information prescribed by the  
16 commission ~~[drawn on tracing linen on a scale not less than one inch~~  
17 ~~equals 2,000 feet]~~.

18 SECTION 3. Section 11.128, Water Code, is amended to read as  
19 follows:

20 Sec. 11.128. PAYMENT OF FEE. The ~~[If the]~~ applicant ~~[is~~  
21 ~~not exempted from payment of the filing fee under Section 12.112 of~~  
22 ~~this code, he]~~ shall pay the filing fee prescribed by Section 5.701  
23 [5.701(c)] at the time ~~[he files]~~ the application is filed. The  
24 commission may ~~[shall]~~ not record, file, or consider the

1 application until the executive director certifies to the  
2 commission that the fee is paid.

3 SECTION 4. Section 11.134, Water Code, is amended by  
4 amending Subsection (b) and adding Subsection (b-1) to read as  
5 follows:

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

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

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

12 (3) the proposed appropriation:

13 (A) is intended for a beneficial use;

14 (B) does not impair existing water rights or  
15 vested riparian rights;

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

17 (D) considers any applicable environmental flow  
18 standards established under Section 11.1471 and, if applicable, the  
19 assessments performed under Sections 11.147(d) and (e) and Sections  
20 11.150, 11.151, and 11.152; and

21 (E) addresses a water supply need in a manner  
22 that is not inconsistent [~~consistent~~] with the state water plan and  
23 the relevant approved regional water plan for any area in which the  
24 proposed appropriation is located, unless the commission  
25 determines that conditions warrant waiver of this requirement; and

26 (4) the applicant has provided evidence that  
27 reasonable diligence will be used to avoid waste and achieve water

1 conservation as defined by Section 11.002(8)(B).

2 (b-1) In determining whether an appropriation is  
3 detrimental to the public welfare under Subsection (b)(3)(C), the  
4 commission may consider only the factors that are within the  
5 jurisdiction and expertise of the commission as established by this  
6 chapter.

7 SECTION 5. Sections 11.125(b) and (c), Water Code, are  
8 repealed.

9 SECTION 6. 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 7. This Act takes effect September 1, 2017.