

By: Taylor of Collin

S.B. No. 225

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the referral by the Texas Commission on Environmental
3 Quality to the State Office of Administrative Hearings of an issue
4 regarding an application for a water right.

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

6 SECTION 1. Section 11.133, Water Code, is amended to read as
7 follows:

8 Sec. 11.133. HEARING. (a) At the time and place stated in
9 the notice, the commission shall hold a hearing on the application.
10 Any person may appear at the hearing in person or by attorney or may
11 enter an [~~his~~] appearance in writing. Any person who appears may
12 present objection to the issuance of the permit. The commission may
13 receive evidence, orally or by affidavit, in support of or in
14 opposition to the issuance of the permit, and it may hear arguments.

15 (b) The commission may not refer an issue regarding an
16 application to the State Office of Administrative Hearings for a
17 hearing unless the commission determines that the issue is:

18 (1) a disputed question of fact or a disputed mixed
19 question of law and fact; and

20 (2) relevant and material to a decision on the
21 application.

22 (c) If the commission grants a request for a hearing, the
23 commission shall:

24 (1) determine the number and scope of issues to be

1 referred to the State Office of Administrative Hearings for a
2 hearing; and

3 (2) consistent with the nature and number of issues to
4 be considered at the hearing, specify the maximum expected duration
5 of the proceeding, beginning with the holding of the preliminary
6 hearing and concluding with the issuance of the proposal for
7 decision, which may not exceed a period of 270 days.

8 (d) The administrative law judge who conducts the hearing
9 may extend the proceeding beyond the period specified by the
10 commission under Subsection (c)(2) if the administrative law judge
11 determines that failure to extend the proceeding would deprive a
12 party of due process or another constitutional right.

13 (e) If the commission refers an application to the State
14 Office of Administrative Hearings, the administrative law judge who
15 conducts the hearing may not grant party status to an affected
16 person who objects to the application if the person failed to submit
17 a request to the commission for a hearing in accordance with Section
18 11.132. This subsection does not apply to the applicant, the office
19 of public interest counsel, or the executive director.

20 (f) In the event of a conflict between this section and any
21 other law, this section prevails.

22 SECTION 2. (a) As soon as practicable after the effective
23 date of this Act, the Texas Commission on Environmental Quality
24 shall adopt rules to implement the changes in law made by this Act.

25 (b) The changes in law made by this Act apply only to an
26 application for a new or amended water right received by the Texas
27 Commission on Environmental Quality on or after the effective date

1 of the rules adopted under Subsection (a) of this section. An
2 application received before the effective date of the rules adopted
3 under Subsection (a) of this section is governed by the law in
4 effect on the date the application was received, and the former law
5 is continued in effect for that purpose.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2017.