

By: Perry, Creighton

S.B. No. 1430

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a requirement that the Texas Commission on
3 Environmental Quality provide an expedited procedure for acting on
4 certain applications for an amendment to a water right by certain
5 applicants that use desalinated seawater.

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

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

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

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

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

21 (3) authorizes the applicant to divert from all of the
22 diversion points authorized by the water right an amount of water
23 that is equal to or less than the amount of water the applicant was
24 authorized to divert under the water right before the requested

1 amendment;

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

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

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

14 SECTION 2. Section 2003.047, Government Code, is amended by
15 amending Subsection (e-3) and adding Subsection (e-6) to read as
16 follows:

17 (e-3) The deadline specified by Subsection (e-2) or (e-6),
18 as applicable, may be extended:

19 (1) by agreement of the parties with the approval of
20 the administrative law judge; or

21 (2) by the administrative law judge if the judge
22 determines that failure to extend the deadline would unduly deprive
23 a party of due process or another constitutional right.

24 (e-6) For a matter pertaining to an application described by
25 Section 11.122(b-1), Water Code, the administrative law judge must
26 complete the proceeding and provide a proposal for decision to the
27 commission not later than the 270th day after the date the matter

1 was referred to the office.

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

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