

House Bill 3735
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

No equivalent provision.

SENATE VERSION (CS)

SECTION 1. Same as House version.

SECTION 2. 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; and

(4) 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

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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.

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

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

SECTION 3. Same as House version.

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

Sec. 11.128. PAYMENT OF FEE. The [~~If the~~] applicant [~~is not exempted from payment of the filing fee under Section 12.112 of this code, he~~] shall pay the filing fee prescribed by Section 5.701 [~~5.701(e)~~] at the time [~~he files~~] the application is filed. The commission may [~~shall~~] not record, file, or consider the application until the executive director certifies to the commission that the fee is paid.

SECTION 4. Same as House version.

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

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

SECTION 5. Same as House version.

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No equivalent provision.

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 Sections 11.125(b) and (c), Water Code, are repealed.

SECTION 6. The changes in law made by this Act apply only to an application for a new or amended water right received by the Texas Commission on Environmental Quality on or after the effective date of this Act. An application received before the effective date of this Act is governed by the law in effect on the date the application was received, and the former law is continued in effect for that purpose.

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

SENATE VERSION (CS)

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

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

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

(2) 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.

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

SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 9. Same as House version.

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