

By: Murr

H.B. No. 3656

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of certain permitted irrigation water rights related to a certain portion of the Edwards Aquifer.

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

SECTION 1. Section 1.34, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.34. TRANSFER OF RIGHTS. (a) In this section:

(1) "Developed land" means historically irrigated land that has been physically altered by the installation of utilities or construction of roads, parking lots, driveways, foundations, structures, buildings, stormwater collection systems, public parks, or athletic fields or by similar improvements.

(2) "Historically irrigated land" means land irrigated during the historical period, as described by Section 1.16 of this Act, that provided the basis for the issuance of an initial regular permit for irrigation use and is identified as the place of use in the initial regular permit.

(3) "Land no longer practicable to farm" means historically irrigated land:

(A) that has not been irrigated for more than five years; and

(B) for which the owner of the land has submitted to the authority documentation demonstrating that because of development on land in close proximity to the historically

1 irrigated land, agricultural activities performed on the land,
2 including crop dusting or other applications of pesticides, have
3 the potential to compromise the health and safety of a farm operator
4 or of persons occupying or residing on property in close proximity
5 to the land.

6 (b) Water withdrawn from the aquifer must be used within the
7 boundaries of the authority.

8 (c) [~~(b)~~] The authority by rule may establish a procedure by
9 which a person who installs water conservation equipment may sell
10 the water conserved.

11 (d) Except as otherwise provided by this section, a [~~(c)~~—A]
12 permit holder may lease permitted water rights, but a holder of a
13 permit for irrigation use may not lease more than 50 percent of the
14 irrigation rights initially permitted. The user's remaining
15 irrigation water rights must be used in accordance with the
16 original permit and must pass with transfer of the irrigated land.

17 (e) Subject to approval by the authority, the owner of
18 historically irrigated land may sever all or a portion of the
19 remaining water rights for the historically irrigated land which
20 has become developed land in the same proportion as the proportion
21 of developed land and undeveloped land or for which the owner of the
22 historically irrigated land has demonstrated that all or a portion
23 of the land is land no longer practicable to farm. Water rights used
24 for irrigation tied to a portion of land that cannot be developed
25 because of its topography or its location in a floodplain may be
26 included in the proportion of land considered developed land.
27 Water rights for use in irrigation severed under this subsection

1 may change in purpose or place of use. Rules adopted to implement
2 this subsection may not expand the type of land considered
3 developed land or land considered land no longer practicable to
4 farm. The approval of a severance under this section is subject to
5 a contested case hearing in accordance with authority rules.

6 (f) The authority may adopt rules to provide for a holder of
7 an initial regular permit for use in irrigation to lease all or part
8 of the water rights for use in irrigation granted in the initial
9 permit to another person for irrigating land, including land not
10 described in the initial regular permit, located in the authority.
11 Rules adopted under this subsection may allow the holder of an
12 initial regular permit to use the water rights temporarily for
13 irrigation at a location other than the land described in the
14 initial regular permit.

15 SECTION 2. Rules adopted by the Edwards Aquifer Authority
16 before the effective date of this Act relating to the severance of
17 water rights from historically irrigated land and actions taken by
18 the authority under those rules are validated and confirmed in all
19 respects.

20 SECTION 3. The change in law made by this Act to Section
21 1.34, Chapter 626, Acts of the 73rd Legislature, Regular Session,
22 1993, applies only to a transfer, and the contracts or other
23 transaction documents of any kind related thereto, including
24 documents related to the extension of credit, hereinafter
25 collectively referred to as "transfer," effective on or after the
26 effective date of this Act. The change in law made by this Act to
27 Section 1.34, Chapter 626, Acts of the 73rd Legislature, Regular

1 Session, 1993, does not affect the validity of a transfer effective
2 before the effective date of this Act. A transfer effective before
3 the effective date of this Act is governed by the provisions of
4 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
5 and the rules of the Edwards Aquifer Authority in effect at the time
6 the transfer became effective. Transfers effective before the
7 effective date of this Act, that have not been rescinded, and are
8 not subject to pending litigation are hereby conclusively validated
9 in all respects.

10 SECTION 4. This Act takes effect September 1, 2019.