

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" means land that can no longer be used for agricultural purposes due to:

(B) actual construction upon and physical alteration of historically irrigated land caused by the construction of roads, parking lots, driveways, foundations, structures, buildings, stormwater collection systems, public parks, athletic fields, or similar improvements; or

(B) rezoning by an appropriate authority such that it can no longer be used for agricultural purposes and the owner of the land no longer seeks to designate the land as agricultural use in accordance with Chapter 23, Subchapter C of the Tax Code.

(2) "Historically irrigated land" means the lands irrigated during the historical period, as described by Section 1.16, 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.

1           **(b)** Water withdrawn from the aquifer must be used within the  
2 boundaries of the authority.

3           **(c)** [~~(b)~~] The authority by rule may establish a procedure by  
4 which a person who installs water conservation equipment may sell  
5 the water conserved.

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

12           **(e)** Except as provided by Subsection (f), the owner of the  
13 irrigated land may sever the remaining water rights for use in  
14 irrigation if at least 75 percent of the historically irrigated is  
15 developed. Water rights used for irrigation tied to portions of  
16 land that cannot be developed due to location within a floodplain or  
17 are impractical to develop due to shape or topography may be  
18 included in the proportion of land considered developed. Water  
19 rights for use in irrigation severed under this subsection may  
20 change in use, so long as at least 25 percent of the use remains in  
21 the same county as the original use and consistent with authority  
22 rules. Rules adopted to implement this subsection may not expand  
23 the type of land considered developed.

24           **(f)** The authority may adopt rules to provide for a holder of  
25 an initial regular permit for use in irrigation to lease the full  
26 amount of the water rights for use in irrigation granted in the  
27 initial permit to another person for irrigating land located in the

1 authority.

2           SECTION 2. The change in law made by this Act to Section  
3 1.34, Chapter 626, Acts of the 73rd Legislature, Regular Session,  
4 1993, applies only to a transfer, and the contracts or other  
5 transaction documents of any kind related thereto, including  
6 documents related to the extension of credit, hereinafter  
7 collectively referred to as "transfer", effective on or after the  
8 effective date of this Act. The change in law made by this Act to  
9 Section 1.34, Chapter 626, Acts of the 73rd Legislature, Regular  
10 Session, 1993, does not affect the validity of a transfer effective  
11 before the effective date of this Act. A transfer effective before  
12 the effective date of this Act is governed by the provisions of  
13 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,  
14 and the rules of the Edwards Aquifer Authority in effect at the time  
15 the transfer became effective. Transfers effective before the  
16 effective date of this Act, that have not been rescinded, and are  
17 not subject to pending litigation are hereby conclusively validated  
18 in all respects.

19           SECTION 3. This Act takes effect September 1, 2019.