

SUBJECT: Authorizing use of state streams to convey out-of-state water into Texas

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 8 ayes — Ritter, Callegari, Corte, Creighton, Frost, Laubenberg,
D. Miller, Smithee

0 nays

3 absent — T. King, Lucio, Martinez Fischer

WITNESSES: For — Linda Christie, Tarrant Regional Water District; (*Registered, but did not testify*: Michael Booth, Tarrant Regional Water District; Dean Robbins, Texas Water Conservation Association; Martin Rochelle, North Texas Municipal Water District)

Against — None

On — Myron Hess, National Wildlife Federation; (*Registered, but did not testify*: Carolyn Brittin, Texas Water Development Board; Kellye Rila, TCEQ)

BACKGROUND: Water Code, sec. 11.042 establishes that under Texas Commission on Environmental Quality (TCEQ) rules, a person, association, corporation, water control and improvement district, water improvement district, or irrigation district supplying stored or conserved water under contract can use the bank and bed of any flowing natural stream in the state to convey the water from the place of storage to the place of use or to the diversion point.

Water Code, sec. 11.085(a) states that a person cannot take or divert any state water from a state river basin and transfer it to another river basin (“interbasin”) without a water right, amendment to a permit, certified filing, or certificate of adjudication from the TCEQ authorizing the transfer.

Water Code, sec. 11.085(v) outlines exceptions to what constitutes an interbasin transfer.

DIGEST: HB 4231 would amend the Water Code to allow water imported from a source located wholly outside the state's boundaries to use the state's streams from the place of storage to the place of use or diversion point.

The bill would exempt imported water from interbasin transfer prohibitions.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS SAY: HB 4231 would allow the state to meet the water needs of its growing population by accessing out-of-state water. According to the 2007 Water Plan developed by the Texas Water Development Board, the population for the state is projected to more than double by 2060. Over that time, the demand for water will increase by 27 percent. Given this scenario, providing new water supplies is crucial. HB 4231 would address this issue and offset the need to build new reservoirs, an often contentious process, by bringing in water from outside the state.

The bill would provide the authority for out-of-state water supplies to move within the state's streams and across its river basins to storage within Texas. As the new out-of-state water would not be otherwise appropriated, its movement would not constitute an interbasin transfer.

OPPONENTS SAY: HB 4231 would be strengthened by including safeguards to ensure that out-of-state water is of appropriate water quality and that stream flow levels are not affected.