

SUBJECT: Exempting certain water right holders from permit cancellation for nonuse

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — T. King, Bowers, Kacal, Larson, Lucio, Paul, Price, Ramos,
Walle, Wilson

0 nays

1 absent — Harris

WITNESSES: For — Carlos Rubinstein; (*Registered, but did not testify*: Dean Robbins, Northeast Texas Municipal Water District; Alex Ortiz, Sierra Club Lone Star Chapter; Justin Yancy, Texas Business Leadership Council; Heather Harward, Texas Water Supply Partners; Sarah Garcia; Georgia Keysor; Vanessa MacDougal)

Against — None

On — (*Registered, but did not testify*: Kimberly Nygren, Texas Commission on Environmental Quality)

BACKGROUND: Water Code sec. 11.121 prohibits a person from appropriating any state water or constructing any work designed for the storage, taking, or diversion of water without first obtaining a permit from the Texas Commission on Environmental Quality (TCEQ).

Sec. 11.171 defines a "certified filing" as a declaration of water appropriation or affidavit that was filed with the State Board of Water Engineers under certain laws.

Sec. 11.323 details a certificate of adjudication, which is issued by TCEQ to each person adjudicated a water right when a final determination of the rights to the waters of a stream has been made in accordance with the procedure provided under law and the time for a rehearing has expired.

Sec. 11.173 provides for the cancellation of a water permit, certified filing, or certificate of adjudication if it has not been put to beneficial use for 10 years.

Concerns have been raised that an entity with certain water rights could risk losing the right if the entity did not use the full permitted amount, leading to some using more water than necessary.

DIGEST:

HB 2710 would exempt a water permit, certified filing, or certificate of adjudication from cancellation due to nonuse to the extent the nonuse resulted from an executed forbearance agreement that:

- promoted restoration, preservation, or enhancement of instream flows; and
- was entered into by the holder of the permit, certified filing, or certificate of adjudication.

The bill would take effect September 1, 2021.