

BILL ANALYSIS

Senate Research Center
85R18512 SMH-F

C.S.S.B. 1430
By: Perry
Agriculture, Water & Rural Affairs
4/3/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Per the 2017 State Water Plan, Texas' population is expected to hit 51 million by 2070. In that same amount of time, the state faces a potential water shortage of 8.9 million acre-feet per year under drought of record conditions. Meeting our future water needs will require new and innovative technologies, such as seawater desalination. With 367 miles of coastline, Texas is a prime place for seawater desalination; in fact, four regional water planning groups have identified seawater desalination as a water management strategy in the 2017 plan. If these projects come to fruition, they are expected to supply 116,000 acre-feet per year of new water supplies by 2070.

S.B. 1430 seeks to encourage the development and use of desalinated seawater. If an existing surface water right holder begins using desalinated seawater, they would have the right to expedited consideration of an application to amend their water right to add or move a diversion point. This amended right would only be allowed for an amount of water equal to or less than the amount of desalinated seawater they are using. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1430 amends current law relating to a requirement that the Texas Commission on Environmental Quality provide an expedited procedure for acting on certain applications for an amendment to a water right by certain applicants that use desalinated seawater.

[**Note:** While certain statutory references in this bill are to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.122, Water Code, by adding Subsections (b-1) and (b-2), as follows:

(b-1) Provides that 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 the 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;

(4) authorizes the applicant to divert water from all of the diversion points authorized by the water right at a combined rate that is equal to or less than the combined rate at which the applicant was authorized to divert water under the water right before the requested amendment; and

(5) does not authorize the water diverted from the different or additional diversion point to be transferred to another river basin.

(b-2) Requires the executive director of the Texas Natural Resource Conservation Commission (TNRCC) or TNRCC to 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 Subsection (b-1).

SECTION 2. Amends Section 2003.047, Government Code, by amending Subsection (e-3) and adding Subsection (e-6), as follows:

(e-3) Authorizes the deadline specified by Subsection (e-2) (relating to requiring the judge to complete the proceeding and provide a proposal for decision to TNRCC) or (e-6), as applicable, to be extended in certain ways.

(e-6) Requires the administrative law judge, for a matter pertaining to an application described by Section 11.122(b-1), Water Code, to complete the proceeding and provide a proposal for decision to the Texas Commission on Environmental Quality by a certain date.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.