

- SUBJECT:** Lower Neches Valley Authority operation of the Devers Canal System
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 9 ayes — Ritter, Callegari, Corte, Frost, T. King, Laubenberg, Lucio, Martinez Fischer, D. Miller
- 0 nays
- 2 absent — Creighton, Smithee
- WITNESSES:** For — Lonnie Arrington, Scott Hall, Lower Neches Valley Authority; Steve Devillier, Devers Canal Rice Producers Association; Brian Fahrenthold, Spectra Energy; (*Registered, but did not testify:* Jeff Branick, for Jefferson County Judge Ron Walker and Jefferson County; Sue Cleveland, Hubert Oxford, Jordan Reese, Olan Webb, Lower Neches Valley Authority; Ford Frost, Dade Phelan)
- Against — None
- BACKGROUND:** The Lower Neches Valley Authority (LNVA) was created by the Legislature in 1933 to operate within all of Tyler, Hardin, and Jefferson counties and in eastern Liberty and Chambers Counties, which are located within the Neches River Basin and the Neches-Trinity Coastal Basin.
- The Devers Canal System (Devers system) was created to supply irrigation from the Trinity River to farmers in rural parts of Liberty and Chambers counties and parts of western Jefferson County. The Devers system has been owned by various entities over the decades, including the Trinity River Authority, and now is owned by a consortium of rice farmers, the Devers Canal Rice Producers Association, Inc.
- In 2006, Hurricane Rita severely damaged the Devers system, and LNVA helped the farmers association by providing the Devers system with emergency water supply from its system to allow for crop planting. LNVA took over operation of the Devers system in 2008 at the request of the Devers farmers and now has a management operation agreement with the farmers association.

DIGEST:

HB 2666 would allow LNVA to acquire, own, operate, maintain, and improve the Devers system, and to enlarge and extend the system in Chambers, Liberty, and Jefferson counties.

LNVA also could own the water rights and use the water under the permits and contracts owned and acquired from its previous owners and from its current owners, the Devers Canal Rice Producers Association, Inc.

The bill would allow LNVA to distribute, sell, and use its water for any purpose approved by the Texas Commission on Environmental Quality, but would not allow it to sell water for irrigation in Chambers County to customers served by the Chambers-Liberty Counties Navigation District without the approval of the navigation district.

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 2666 simply would provide LNVA with the needed authorization to continue improving the Devers Canal System, which provides crucial water service to the long-term rice farmers of the area, and would provide a stable infrastructure to attract economic development. Before LNVA's involvement, the Devers system was in dire need of attention, having proven too costly to operate as a stand-alone operation. About 80 percent of the Devers system is within LNVA's current jurisdiction and does not overlap with another entity providing service.

LNVA has responded to the unanimous request of the farmers who own the Devers Canal System to operate the system and already has invested roughly \$3 million in capital improvements. These improvements and LNVA's service have benefitted the farmers greatly by providing to them a reliable, year-round supply of water for irrigation at a reduced cost, a marked improvement over the water they formerly received on a seasonal basis. The reliable supply and reduced water costs have increased property values and have provided the incentive for farmers to increase their production. Having a reliable water supply also is crucial to area ranchers, wildlife, and hunting interests.

In order for the LNVA to recoup its outlays for Devers system improvements, it should have the opportunity to provide service for future customers by expanding the system. HB 2666 would codify LNVA's authority to provide needed water service to Chambers and Liberty counties and would provide the basis for continued improvements.

The bill would not allow an inter-basin transfer to occur because water from the Trinity River Basin currently is allowed to move east into the affected counties. It also specifically would prohibit LNVA from selling water for irrigation to customers served by the Chamber-Liberty Counties Navigation District without permission from that district.

**OPPONENTS  
SAY:**

While authorizing LNVA to operate and improve the Devers system would benefit the area, it should not come at the expense of existing water districts. The Chambers-Liberty Counties Navigation District has infrastructure to provide water for municipal, industrial, and irrigation purposes in Chambers County and has authority to provide service in Liberty County. Given the navigation district's long-time service to the area and its infrastructure investment, LNVA should not be allowed to encroach upon the navigation district's existing service area through expansion of the Devers system.

A better approach would be to provide the navigation district the right of first refusal to sell or provide water for any use other than irrigation in Chambers County outside of LNVA's district.

**NOTES:**

The companion bill, SB 913 by Williams, was considered in a public hearing by the Senate Natural Resources Committee on April 2 and left pending.