

SUBJECT: Permitting requirements to transfer ground water outside of a district

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 8 ayes — Ritter, Ashby, D. Bonnen, Callegari, Keffer, Larson, Martinez Fischer, D. Miller

0 nays

3 absent — Johnson, T. King, Lucio

WITNESSES: For — Steve Kosub, San Antonio Water System; (*Registered, but did not testify*: Melanie Oldham)

Against — Stacey Steinbach, Texas Alliance of Groundwater Districts; (*Registered, but did not testify*: Janet Adams, Jeff Davis County Underground Water Conservation District; Mike Mahoney, Evergreen Underground Water Conservation District; Cindy Weatherby, Santa Rita Underground Water Conservation District)

BACKGROUND: Texas Water Code, secs. 36.113 and 36.1131 authorize groundwater conservation districts to establish the conditions, including the term, of a permit to withdraw groundwater from within the district. The conditions and the terms of groundwater district permits vary from district to district, with a term as short as one year.

Texas Water Code, sec. 36.122, requires a permit for the transfer of groundwater out of a district be issued for, or extended to, a period of at least 30 years upon construction of a conveyance system.

DIGEST: HB 2739 would merge the conditions required of an operating permit with the conditions to transfer groundwater out of a district, creating a single permit for operating and transporting.

The bill also would make additions to Water Code, sec. 36.122, regarding the permit terms for transferring groundwater out of a district by allowing a district to authorize the production of a well and the transfer of water produced from the well. Those permit terms would be at least 30 years, if the applicant had initiated construction of a conveyance system prior to the

issuance of the permit.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

The Texas Water Code reflects a legislative understanding of the need for long-term permit reliability to secure customary 30-year project financing. However, some districts are interpreting existing statute to authorize a requirement for two separate permits — that is, a withdrawal permit issued for one year, or some other short term, and a separate transfer permit to be issued for 30 years. This requirement for separate permits of different terms defeats the certainty and the purpose of existing statute.

Development of a major groundwater supply project may require long-term financing and expenditure of hundreds of millions of dollars. This financing, and long-term water supply planning, is made very difficult when it must be predicated on a short-term withdrawal permit. HB 2739 would amend ch. 36 of the Water Code to provide that an applicant who intended to transfer water for use outside the district apply for, and be issued, a single permit with a term of 30 years.

This legislation would not tie the hands of districts. While the permit would be long term to provide some level of certainty, it would allow for periodic permit reviews, as often as the district desired, as well as the flexibility for the district to manage supplies during drought. Further, existing law allows a district to review and make reductions to address groundwater availability, aquifer conditions, subsidence, depletion, and effects on other users.

By requiring a long-term permit for production and transfer, HB 2739 would provide needed stability in the groundwater permitting process and give meaning to existing statute.

**OPPONENTS
SAY:**

Many groundwater districts issue separate operating and transfer permits. This bill would roll transfer and operating permits into one permit. This could cause confusion and possibly tie the hands of the groundwater district by locking in permit terms for 30 years. Under HB 2739, exporters would be granted a 30-year operating permit term while in-district users would be limited to a much shorter permit term as provided in district rules. It is inappropriate for exporters to have better permit terms than in-district users. This bill also would make it easier to transport water out of a district on a long-term basis, effectively incentivizing export.