

BILL ANALYSIS

Senate Research Center

H.B. 4231
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the 2007 State Water Plan, the population of Texas is projected to more than double by 2060. The demand for water will also increase over this time. One of the potential sources for that new water could be neighboring states with surpluses that are looking to sell water elsewhere. This bill would allow the state to meet future water needs.

Current Texas law is silent as to whether a water district can utilize the beds and banks of a state water course to move water that is from a source outside the state. Because the out-of-state water is currently not part of a Texas river basin, the movement would not have any affect on the current flows or water rights holders in any basin.

H.B. 4231 will authorize the issuance of a bed and banks permit to move water from a source wholly outside the state, except water that is imported from a source located in the United Mexican States, to a place of storage or diversion in Texas. Since the new out-of-state water and its movement does not affect the current situation in any basin, the movement from one basin or another of this new water should be exempt from all of the requirements of an interbasin transfer. This bill would exempt these transfers from the requirements of the Water Code afforded interbasin transfers.

H.B. 4231 amends current law relating to the conveyancing or transfer in this state of water imported into this state from a source located outside this state.

[**Note:** While the statutory reference in this bill is 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

Rulemaking authority previously granted to the Texas Natural Resource Conservation Commission is modified in SECTION 2 (Section 11.042, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.0237(b), Water Code, to provide that this section does not alter the Texas Natural Resource Conservation Commission's (TNRCC) obligations under certain sections, including Section 11.042(a-1). Makes a nonsubstantive change.

SECTION 2. Amends Section 11.042, Water Code, by adding Subsection (a-1), as follows:

(a-1) Authorizes a person, association of persons, corporation, water control and improvement district, water improvement district, or irrigation district supplying water imported from a source located wholly outside the boundaries of this state, except water imported from a source located in the United Mexican States, with prior authorization granted under rules prescribed by TNRCC, to use the bed and banks of any flowing natural stream in the state to convey water for use in this state. Requires that the authorization allow for the diversion of only the amount of water put into a watercourse or stream, less carriage losses, and include special conditions adequate to prevent a significant impact to the quality of water in this state.

SECTION 3. Amends Section 11.085(v), Water Code, to provide that the provisions of this section, except Subsection (a) (relating to prohibiting a person from taking or diverting state water without receiving a water right or amendment to a permit), do not apply to certain transfers of water, including a proposed transfer of water that is imported from a source located wholly outside the boundaries of this state, except water that is imported from a source located in the United Mexican States, for use in this state, and transported by using the bed and banks of any flowing natural stream located in this state.

SECTION 4. Effective date: upon passage or September 1, 2009.