

BILL ANALYSIS

Senate Research Center

S.B. 1360
By: Nichols
Natural Resources
8/4/2009
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Permit to Appropriate State Water No. 4228 (Permit 4228) issued by the Texas Water Commission [a predecessor agency to the Texas Commission on Environmental Quality] to the Angelina and Neches River Authority (ANRA) for its Lake Columbia Regional Water Supply Project contained dates by which ANRA was required to commence and complete construction of the dam and reservoir authorized in the permit. In 2001, the 77th Texas Legislature passed S.B. 1600, which extended the construction commencement date to September 1, 2011, and the completion date to September 1, 2017. Also, S.B. 1362 enacted by the 78th Texas Legislature in 2003, designated the reservoir site as a “site of unique value for the construction of a dam and reservoir on Mud Creek” pursuant to Section 16.051(g) (relating to the legislature designating a site of unique value for the construction of a reservoir), Water Code.

In March 17, 2005, ANRA and the Texas Water Development Board (TWDB) entered into a master agreement to provide for the participation by TWDB in Lake Columbia. Under the master agreement, TWDB became a co-owner of Permit 4228 when it advanced \$1,250,000 to ANRA for work on Lake Columbia. Subsequently, TWDB has committed approximately \$16,000,000 to the project and has a request pending that would increase that amount by another \$48,000,000.

This bill removes the construction commencement and completion deadlines in Permit 4228. This action seeks to remove any uncertainty caused by the deadlines which create a risk to the state’s investment in the project. Chapter 11 (Water Rights), Water Code, relating to water rights and permits, does not contain any definition or guidance as to what constitutes “construction.” Regulations used by TWDB in some of its programs include in the definition of “construction” activities including planning, permitting, designing, and other actions. Under the master agreement, work already funded and performed is considered to be “construction.”

S.B. 1360 amends current law relating to the deadlines for commencement and completion of the Lake Columbia reservoir project.

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. Provides that the legislature finds that the proposed Lake Columbia project authorized by Permit to Appropriate State Water Number 4228 (Application No. 4537) is a rural water project for political subdivisions and that its construction and development are in the public interest. Provides that the legislature further finds that the Texas Water Development Board has obtained a right and interest in the permit and that the deadlines provided by the permit for commencement and completion of construction of the project should be stricken from the permit.

SECTION 2. Requires the Texas Commission on Environmental Quality to issue without notice or hearing an amendment to the permit striking from the permit the deadlines provided by the permit for commencement and completion of construction of the project in accordance with this Act.

SECTION 3. Effective date: upon passage or September 1, 2009.