

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 3735  
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Agriculture, Water & Rural Affairs  
5/19/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties contend that certain Water Code provisions relating to the water rights application process are out of date. H.B. 3735 seeks to address this issue by amending statutory provisions regarding an application for a new or amended water right submitted to the Texas Commission on Environmental Quality (TCEQ).

H.B. 3735 repeals provisions of the Water Code relating to the content of the map or plat required to accompany an application for a new or amended water right and amends the Water Code to remove the requirement that such a map or plat be drawn in a certain form. H.B. 3735 instead provides for such a map or plat in the form and containing the information prescribed by TCEQ. The bill limits the factors TCEQ may consider in determining whether an appropriation is detrimental to the public welfare with regard to granting an application for a new or amended water right to factors that are within the jurisdiction and expertise of TCEQ as established by certain water rights provisions. (Original Author's / Sponsor's Statement of Intent)

H.B. 3735 amends current law relating to an application for a new or amended water right submitted to the Texas Commission on Environmental Quality.

### **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 Sections 11.002(1) and (3), Water Code, to redefine "commission" and "executive director."

SECTION 2. 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 meets certain conditions.

(b-2) Requires the executive director of the Texas Commission on Environmental Quality (executive director; TCEQ) or TCEQ 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 that subsection.

SECTION 3. Amends Section 11.125(a), Water Code, to require that an application for a new or amended water right be accompanied by a map or plat in the form and containing the information prescribed by TCEQ, rather than by a map or plat drawn on tracing linen on a scale not less than one inch equals 2,000 feet.

SECTION 4. Amends Section 11.128, Water Code, as follows:

Sec. 11.128. PAYMENT OF FEE. Requires the applicant, rather than requires the applicant if he is not exempted from payment of the filing fee under Section 12.112 (Fees: Exemptions) of this code, to pay the filing fee prescribed by Section 5.701 (Fees) at the time the application is filed, rather than prescribed by Section 5.701(c) (relating to the fee for filing a water permit application) at the time he files the application. Makes a nonsubstantive change.

SECTION 5. Amends Section 11.134, Water Code, by adding Subsection (b-1), to authorize TCEQ, in determining whether an appropriation is detrimental to the public welfare under Subsection (b)(3)(C) (relating to TCEQ granting an application only if the proposed appropriation is not detrimental to the public welfare), to consider only the factors that are within the jurisdiction and expertise of TCEQ as established by this chapter (Water Rights).

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

(e-3) Includes Subsection (e-6), as applicable, among subsections that specify the deadline.

(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 TCEQ not later than the 270th day after the date the matter was referred to the office.

SECTION 7. Repealers: Sections 11.125 (b) (relating to the map or plat showing certain locations) and (c) (relating to the map or plat containing certain additional information), Water Code.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: September 1, 2017.