

SUBJECT: Transferring certain irrigation water rights in the Edwards Aquifer

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — Larson, Metcalf, Dominguez, Harris, T. King, Lang, Nevárez, Oliverson, Price, Ramos

0 nays

1 absent — Farrar

WITNESSES: For — Donald McLaughlin, City and County of Uvalde; Bruce Alexander, East Medina County Special Utility District, Texas Rural Water Association; Jared Capt, Landowners in Uvalde County; Chris Schuchart, Medina County; Buck Benson, Various EAA permit holders; (*Registered, but did not testify*: Vince DiPiazza, City of Uvalde; Billy Howe, Texas Farm Bureau)

Against — (*Registered, but did not testify*: Charles Flatten, Hill Country Alliance; Robert Turner, West Texas Groundwater Management Alliance)

On — Marc Friberg and Roland Ruiz, Edwards Aquifer Authority

BACKGROUND: Acts of the 73rd Legislature, Regular Session, 1993, ch. 626 establishes the Edwards Aquifer Authority to manage the Edwards Aquifer. Sec. 1.34 governs the transfer of irrigation water rights within the authority. A permit holder may lease permitted water rights, but a holder of a permit for irrigation use may not lease more than 50 percent of the irrigation rights initially permitted. The user's remaining irrigation water rights must be used in accordance with the original permit and must pass with transfer of the irrigated land.

Some suggest there is a lack of clarity about how water originally allocated for irrigation use can be used in the Edwards Aquifer Authority in areas where development has resulted in an inability to use land for agricultural purposes.

DIGEST: CSHB 3656 would amend irrigation water transfers with the Edwards Aquifer Authority to allow a landowner to sever and transfer certain water rights for historically irrigated land. Irrigation water rights severed under the bill could change in purpose or place of use.

Under the bill, an owner of land within the Edwards Aquifer Authority could sever all or a portion of the remaining water rights for historically irrigated land that had become developed land, subject to the authority's approval. The owner could sever water rights in proportion to the part of the land that had been developed. Water rights used for irrigation that were tied to a portion of land that could not be developed because of its topography or location in a floodplain could be included in the proportion of land considered developed land.

A land owner also could sever water rights for historically irrigated land if the owner demonstrated that all or a portion of the land was no longer practicable to farm. To be considered no longer practicable to farm, the land could not have been irrigated for more than five years, and the landowner would need to submit documentation to the authority that due to development in close proximity to the land, agricultural activities could present health and safety concerns.

Rules adopted to implement the bill could not expand the type of land considered developed land or land considered no longer practicable to farm. The approval of a severance under the bill would be subject to a contested case hearing.

The Edwards Aquifer Authority also could adopt rules allowing the holder of an initial regular irrigation water permit to lease all or part of the permitted water rights to another person for irrigating land, including land not described in the initial permit, located in the authority. Adopted rules also could allow the permit holder to use the water rights temporarily for irrigation at a location other than the land described in the initial regular permit.

Rules adopted by the authority before the effective date of the bill on the severance of water rights from historically irrigated land and actions taken by the authority under those rules would be validated and confirmed in all respects.

The bill would take effect September 1, 2019, and would apply only to transfers effective on or after that date.