

## **BILL ANALYSIS**

Senate Research Center  
83R26697 JAM-F

C.S.H.B. 2615  
By: Johnson (Fraser)  
Natural Resources  
5/14/2013  
Committee Report (Substituted)

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

The Texas Commission on Environmental Quality (TCEQ) has general jurisdiction over water and water rights, including the issuance of water rights permits and enforcement of water rights. Under current law, a water rights holder is required to submit an annual water use report to TCEQ. Interested parties note, however, that a review of water use data revealed that only about 60 percent of water rights holders outside of watermaster areas report their annual water use by such deadline each year. The parties contend that because this information is used for various purposes in the administration of water rights, including responses to priority calls during a drought, having more complete data is essential to the effective administration of water rights by TCEQ.

C.S.H.B. 2615 amends current law relating to the use of state water, and provides a penalty.

[**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**

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 11.031, Water Code, by amending Subsections (b) and (d) and adding Subsections (b-1) and (g), as follows:

(b) Provides that a person who fails to file an annual report with the Texas Natural Resource Conservation Commission (TNRCC) as required by Subsection (a) (relating to requiring each person who has a water right issued by TNRCC or who impounded, diverted, or otherwise used state water during the preceding calendar year to submit a written report to TNRCC on a form prescribed by TNRCC) or fails to timely comply with a request by TNRCC to make information available under Subsection (d) is liable for a penalty for each day the person fails to file the statement or comply with the request after the application deadline in an amount not to exceed:

- (1) \$100 per day if the person is the holder of a water right authorizing the appropriation of 5,000 acre-feet or less per year; or
- (2) \$500 per day if the person is the holder of a water right authorizing the appropriation of more than 5,000 acre-feet per year.

Deletes existing text providing that a person who fails to file an annual report with TNRCC as required by this section is liable to a penalty of \$25, plus \$1 per day for each day he fails to file the statement after March 1. Deletes existing text providing that the maximum penalty under this section is \$150.

(b-1) Creates this subsection from existing text. Authorizes the state to sue to recover a penalty under Subsection (b). Makes a nonsubstantive change.

(d) Requires each person who has a water right issued by TNRCC or who impounds, diverts, or otherwise uses state water to maintain water use information required under Subsection (a) on a monthly basis during the months a water rights holder uses permitted water. Requires the person to make the information available to TNRCC on TNRCC's request. Requires the executive director of TNRCC (executive director) to establish a reasonable deadline by which a person is required to make available information requested by TNRCC under this subsection.

(g) Requires TNRCC to establish a process by which a report required under Subsection (a) may be submitted electronically through the Internet.

SECTION 2. Amends Section 11.173(b), Water Code, as follows:

(b) Exempts a permit, certified filing, or certificate of adjudication or a portion of a permit, certified filing, or certificate of adjudication from cancellation under Subsection (a) (relating to providing that a permit, certified filing, or certificate of adjudication is subject to cancellation if the permit, certified filing, or certificate of adjudication has not been put to beneficial use during the immediate 10-year period preceding the cancellation proceedings):

(1)-(4) Makes no change to these subdivisions; or

(5) to the extent the nonuse resulted from:

(A) Makes no change to this paragraph;

(B) a suspension, adjustment, or other restriction on the use of the water authorized to be appropriated under the permit, certified filing, or certificate of adjudication imposed under an order issued by the executive director; or

(C) an inability to appropriate the water authorized to be appropriated under the permit, certified filing, or certificate of adjudication due to drought conditions.

SECTION 3. Provides that Section 11.031, Water Code, as amended by this Act, applies only to a report due or a request for information made on or after the effective date of this Act. Provides that a report due or request made before that date is governed by the law in effect on the date the report is due or the request is made, and the former law is continued in effect for that purpose.

SECTION 4. Effective date: September 1, 2013.