

BILL ANALYSIS

Senate Research Center
86R9937 SLB-F

H.B. 1964
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Water & Rural Affairs
5/11/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The application process for amending an existing water right can be costly and lengthy. Interested parties observe that some water rights amendments are simple and have no bearing on other rights within a basin or the environment. As an alternative to the lengthy application process, these parties observe that minor, technical water rights amendments could be exempted from several burdensome procedural requirements.

H.B. 1964 would streamline the water rights permitting process of the Texas Commission on Environmental Quality by eliminating notice and the possibility of a hearing for a specific category of water rights applications that have no impact on the environment or other water rights.

H.B. 1964 amends current law relating to the procedure for action on certain applications for an amendment to a water right.

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 Section 11.122, Water Code, by adding Subsection (b-3) as follows:

(b-3) Provides that, in addition to an application that meets the requirements of Subsection (b) and for which the Texas Commission on Environmental Quality (TCEQ) has determined that notice or an opportunity for a contested case hearing is not required under another statute or a TCEQ rule, an application for an amendment to a water right is exempt from any requirements of a statute or TCEQ rule regarding notice and hearing or technical review by the executive director of TCEQ (executive director) or TCEQ and is prohibited from being referred to the State Office of Administrative Hearings for a contested case hearing if the executive director determines after an administrative review that the application is for an amendment that:

- (1) adds a purpose of use that does not substantially alter:
 - (A) the nature of the right from a right authorizing only nonconsumptive use to a right authorizing consumptive use; or
 - (B) a pattern of use that is explicitly authorized in or required by the original right;
- (2) adds a place of use located in the same basin as the place of use authorized by the original right; or
- (3) changes the point of diversion, provided that:
 - (A) the authorized rate of diversion is not increased;

(B) the original point of diversion and the new point of diversion are located in the same contiguous tract of land;

(C) the original point of diversion and the new point of diversion are from the same source of supply;

(D) there are no points of diversion from the same source of supply associated with other water rights that are located between the original point of diversion and the new point of diversion;

(E) there are no streamflow gauges located on the source of supply between the original point of diversion and the new point of diversion that are referenced in the original water right or in another water right authorizing a diversion from the same source of supply; and

(F) there are no tributary watercourses that enter the watercourse that is the source of supply located between the original point of diversion and the new point of diversion.

SECTION 2. Provides that this Act applies to an application to amend a water right that is filed with TCEQ on or after the effective date of this Act or is pending as of the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2019.