

AN ACT

relating to the procedure for obtaining a right to use state water if the applicant proposes an alternative source of water that is not state water.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 11.132(c) and (d), Water Code, are amended to read as follows:

(c) In the notice, the commission shall:

- (1) state the name and address of the applicant;
- (2) state the date the application was filed;
- (3) state the purpose and extent of the proposed appropriation of water;
- (4) identify the source of supply and the place where the water is to be stored or taken or diverted from the source of supply;
- (5) identify any proposed alternative source of water, other than state water, identified by the applicant;
- (6) specify the time and location where the commission will consider the application; and
- (7) [~~(6)~~] give any additional information the commission considers necessary.

(d) The commission may act on the application without holding a public hearing if:

- (1) not less than 30 days before the date of action on

1 the application by the commission, the applicant has published the  
2 commission's notice of the application at least once in a newspaper  
3 regularly published or circulated within the section of the state  
4 where the source of water is located;

5 (2) not less than 30 days before the date of action on  
6 the application by the commission, the commission mails a copy of  
7 the notice by first-class mail, postage prepaid, to:

8 (A) each claimant or appropriator of water from  
9 the source of water supply, the record of whose claim or  
10 appropriation has been filed with the commission; ~~and~~

11 (B) each groundwater conservation district with  
12 jurisdiction over the proposed groundwater production, if the  
13 applicant proposes to use groundwater from a well located within a  
14 groundwater conservation district as an alternative source of  
15 water; and

16 (C) all navigation districts within the river  
17 basin concerned; and

18 (3) within 30 days after the date of the newspaper  
19 publication of the commission's notice, a public hearing has not  
20 been requested in writing by a commissioner, the executive  
21 director, or an affected person who objects to the application.

22 SECTION 2. Section 11.135(b), Water Code, is amended to  
23 read as follows:

24 (b) The permit shall be in writing and attested by the seal  
25 of the commission, and it shall contain substantially the following  
26 information:

27 (1) the name of the person to whom the permit is

1 issued;

2 (2) the date the permit is issued;

3 (3) the date the original application was filed;

4 (4) the use or purpose for which the appropriation is  
5 to be made;

6 (5) the amount or volume of water authorized to be  
7 appropriated for each purpose; if use of the appropriated water is  
8 authorized for multiple purposes, the permit shall contain a  
9 special condition limiting the total amount of water that may  
10 actually be diverted for all of the purposes to the amount of water  
11 appropriated;

12 (6) a general description of the source of supply from  
13 which the appropriation is proposed to be made, including any  
14 alternative source of water that is not state water;

15 (7) the time within which construction or work must  
16 begin and the time within which it must be completed; and

17 (8) any other information the commission prescribes.

18 SECTION 3. Sections 11.143(e) and (f), Water Code, are  
19 amended to read as follows:

20 (e) In the notice, the commission shall:

21 (1) state the name and post-office address of the  
22 applicant;

23 (2) state the date the application was filed;

24 (3) state the purpose and extent of the proposed  
25 appropriation of water;

26 (4) identify the source of supply, including any  
27 proposed alternative source of water, other than state water,

1 identified by the applicant, and the place where the water is  
2 stored; and

3 (5) specify the time and place of the hearing.

4 (f) The notice shall be published only once, at least 20  
5 days before the date stated in the notice for the hearing on the  
6 application, in a newspaper having general circulation in the  
7 county where the dam or reservoir is located. At least 15 days  
8 before the date set for the hearing, the commission shall transmit a  
9 copy of the notice by first-class mail to each person whose claim or  
10 appropriation has been filed with the commission and whose  
11 diversion point is downstream from that described in the  
12 application. If the notice identifies groundwater from a well  
13 located in a groundwater conservation district as a proposed  
14 alternative source of water, the notice shall be:

15 (1) sent to the groundwater conservation district in  
16 which the well is located; and

17 (2) published, at least 20 days before the date stated  
18 in the notice for the hearing, in a newspaper having general  
19 circulation in each county in which the groundwater district is  
20 located.

21 SECTION 4. The changes in law made by this Act apply only to  
22 an application for a new or amended water right received by the  
23 Texas Commission on Environmental Quality on or after the effective  
24 date of this Act. An application received before the effective date  
25 of this Act is governed by the law in effect on the date the  
26 application was received, and the former law is continued in effect  
27 for that purpose.

1 SECTION 5. This Act takes effect September 1, 2017.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 864 passed the Senate on April 3, 2017, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 864 passed the House on May 19, 2017, by the following vote: Yeas 144, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor