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et al.

H.B. No. 2647

A BILL TO BE ENTITLED

AN ACT

relating to a limitation on the authority to curtail groundwater
production from wells used for power generation or mining.

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

SECTION 1. Subchapter D, Chapter 36, Water Code, is amended
by adding Section 36.1175 to read as follows:

Sec. 36.1175. POWER GENERATION EXEMPTION. (a) This section applies to a well that produces groundwater used to support the operation of a power generation facility or a mine that provides fuel to a power generation facility, including production for boiler makeup water, fire suppression, dewatering, potable water, and depressurization.

(b) An owner or operator of a well to which this section applies is entitled to petition the district for a delay in the effective date of any district action that would reduce or curtail production from a well or limit the groundwater production rate of a well to an amount that is less than:

(1) the maximum annual amount of withdrawal as of September 1, 2014, authorized by the permit, regardless of whether the permit was issued by the district or the Railroad Commission of Texas; or

(2) the maximum annual historical amount of withdrawal recorded before September 1, 2014, if the well was in operation on that date and no permit from any entity was required for the

1 operation of the well.

2 (c) The owner or operator of a well subject to this section
3 may petition for a delay described by Subsection (b). The petition
4 must include evidence that the owner or operator is engaging in good
5 faith efforts to identify practicable, readily available
6 alternative sources of water with comparable quality. After
7 receipt of the petition, the district shall hold a public hearing
8 and after the hearing shall make a final determination as to whether
9 the proposed reduction or curtailment in groundwater production
10 would threaten public health or safety or the reliability of the
11 electric grid. The proposed reduction or curtailment for which the
12 owner or operator is seeking a delay may not take effect until the
13 district has made a final determination under this subsection.

14 (d) If the district determines under Subsection (c) that a
15 proposed reduction or curtailment in groundwater production would
16 threaten public health or safety or the reliability of the electric
17 grid, the district shall delay the effective date of the reduction
18 or curtailment to a date not earlier than seven years after the date
19 that the final determination is made.

20 (e) If an owner or operator receives a delay under
21 Subsection (d), the owner or operator may petition the district at
22 any time before the delayed effective date of the proposed
23 reduction or curtailment to delay the effective date a second time
24 for an additional three years as provided by this subsection. After
25 receiving the petition, the district shall hold a public hearing
26 and after the hearing shall make a final determination to approve
27 the additional three-year delay if the district determines that:

1 (1) the owner or operator has engaged in good faith
2 efforts to identify and begin implementing strategies to comply
3 with the proposed reduction or curtailment; and

4 (2) implementation of the proposed reduction or
5 curtailment in groundwater production on the date set under
6 Subsection (d) would threaten public health or safety or the
7 reliability of the electric grid.

8 (f) In making a final determination described by Subsection
9 (c), (d), or (e), the district shall request, obtain, and give great
10 weight to an opinion issued by the Public Utility Commission of
11 Texas.

12 SECTION 2. The changes in law made by this Act apply only to
13 a reduction or curtailment in groundwater production ordered by a
14 groundwater conservation district on or after the effective date of
15 this Act. A reduction or curtailment in groundwater production
16 ordered by a groundwater conservation district before the effective
17 date of this Act is governed by the law in effect at the time the
18 reduction or curtailment in groundwater production was ordered, and
19 the former law is continued in effect for that purpose.

20 SECTION 3. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2015.