

1-1 By: Murr (Senate Sponsor - Flores) H.B. No. 3656
1-2 (In the Senate - Received from the House May 6, 2019;
1-3 May 7, 2019, read first time and referred to Committee on Water &
1-4 Rural Affairs; May 15, 2019, reported favorably by the following
1-5 vote: Yeas 7, Nays 0; May 15, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	<u>Perry</u>	X		
1-9	<u>Creighton</u>	X		
1-10	<u>Alvarado</u>	X		
1-11	<u>Johnson</u>	X		
1-12	<u>Kolkhorst</u>	X		
1-13	<u>Rodríguez</u>	X		
1-14	<u>Taylor</u>	X		

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the transfer of certain permitted irrigation water
1-18 rights related to a certain portion of the Edwards Aquifer.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 1.34, Chapter 626, Acts of the 73rd
1-21 Legislature, Regular Session, 1993, is amended to read as follows:

1-22 Sec. 1.34. TRANSFER OF RIGHTS. (a) In this section:

1-23 (1) "Developed land" means historically irrigated
1-24 land that has been physically altered by the installation of
1-25 utilities or construction of roads, parking lots, driveways,
1-26 foundations, structures, buildings, stormwater collection systems,
1-27 public parks, or athletic fields or by similar improvements.

1-28 (2) "Historically irrigated land" means land
1-29 irrigated during the historical period, as described by Section
1-30 1.16 of this Act, that provided the basis for the issuance of an
1-31 initial regular permit for irrigation use and is identified as the
1-32 place of use in the initial regular permit.

1-33 (3) "Land no longer practicable to farm" means
1-34 historically irrigated land:

1-35 (A) that has not been irrigated for more than
1-36 five years; and

1-37 (B) for which the owner of the land has submitted
1-38 to the authority documentation demonstrating that because of
1-39 development on land in close proximity to the historically
1-40 irrigated land, agricultural activities performed on the land,
1-41 including crop dusting or other applications of pesticides, have
1-42 the potential to compromise the health and safety of a farm operator
1-43 or of persons occupying or residing on property in close proximity
1-44 to the land.

1-45 (b) Water withdrawn from the aquifer must be used within the
1-46 boundaries of the authority.

1-47 (c) ~~[(b)]~~ The authority by rule may establish a procedure by
1-48 which a person who installs water conservation equipment may sell
1-49 the water conserved.

1-50 (d) Except as otherwise provided by this section, a ~~[(c) A]~~
1-51 permit holder may lease permitted water rights, but a holder of a
1-52 permit for irrigation use may not lease more than 50 percent of the
1-53 irrigation rights initially permitted. The user's remaining
1-54 irrigation water rights must be used in accordance with the
1-55 original permit and must pass with transfer of the irrigated land.

1-56 (e) Subject to approval by the authority, the owner of
1-57 historically irrigated land may sever all or a portion of the
1-58 remaining water rights for the historically irrigated land which
1-59 has become developed land in the same proportion as the proportion
1-60 of developed land and undeveloped land or for which the owner of the
1-61 historically irrigated land has demonstrated that all or a portion

2-1 of the land is land no longer practicable to farm. Water rights used
2-2 for irrigation tied to a portion of land that cannot be developed
2-3 because of its topography or its location in a floodplain may be
2-4 included in the proportion of land considered developed land.
2-5 Water rights for use in irrigation severed under this subsection
2-6 may change in purpose or place of use. Rules adopted to implement
2-7 this subsection may not expand the type of land considered
2-8 developed land or land considered land no longer practicable to
2-9 farm. The approval of a severance under this section is subject to
2-10 a contested case hearing in accordance with authority rules.

2-11 (f) The authority may adopt rules to provide for a holder of
2-12 an initial regular permit for use in irrigation to lease all or part
2-13 of the water rights for use in irrigation granted in the initial
2-14 permit to another person for irrigating land, including land not
2-15 described in the initial regular permit, located in the authority.
2-16 Rules adopted under this subsection may allow the holder of an
2-17 initial regular permit to use the water rights temporarily for
2-18 irrigation at a location other than the land described in the
2-19 initial regular permit.

2-20 SECTION 2. Rules adopted by the Edwards Aquifer Authority
2-21 before the effective date of this Act relating to the severance of
2-22 water rights from historically irrigated land and actions taken by
2-23 the authority under those rules are validated and confirmed in all
2-24 respects.

2-25 SECTION 3. The change in law made by this Act to Section
2-26 1.34, Chapter 626, Acts of the 73rd Legislature, Regular Session,
2-27 1993, applies only to a transfer, and the contracts or other
2-28 transaction documents of any kind related thereto, including
2-29 documents related to the extension of credit, hereinafter
2-30 collectively referred to as "transfer," effective on or after the
2-31 effective date of this Act. The change in law made by this Act to
2-32 Section 1.34, Chapter 626, Acts of the 73rd Legislature, Regular
2-33 Session, 1993, does not affect the validity of a transfer effective
2-34 before the effective date of this Act. A transfer effective before
2-35 the effective date of this Act is governed by the provisions of
2-36 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
2-37 and the rules of the Edwards Aquifer Authority in effect at the time
2-38 the transfer became effective. Transfers effective before the
2-39 effective date of this Act, that have not been rescinded, and are
2-40 not subject to pending litigation are hereby conclusively validated
2-41 in all respects.

2-42 SECTION 4. This Act takes effect September 1, 2019.

2-43 * * * * *