

CHAPTER 779

H.B. No. 1787

AN ACT

relating to a watermaster system for the Texas Water Commission.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 11, Water Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. COMMISSION-APPOINTED WATERMASTER

Sec. 11.451. COMMISSION AUTHORITY. On petition of 25 or more holders of water rights in a river basin or segment of a river basin or on its own motion the commission may authorize the executive director to appoint a watermaster for a river basin or segment of a river basin if the commission finds that the rights of senior water rights holders in the basin or segment of the basin are threatened.

Sec. 11.452. PROCEDURE FOR DETERMINATION. (a) On receiving a petition for appointment of a watermaster or on its own motion, the commission shall call and hold a hearing to determine if a need exists for appointment of a watermaster for the river basin or segment of the river basin.

(b) At the hearing persons who hold water rights in the river basin or segment of the river basin may appear before the commission and submit testimony and evidence relating to the need for appointment of a watermaster.

(c) After the hearing, the commission shall make a written determination as to whether a threat exists to the rights of senior water rights holders in the river basin or segment of the river basin and shall issue an order either finding that a threat exists and directing appointment of a watermaster or denying appointment of a watermaster.

Sec. 11.453. APPOINTMENT OF WATERMASTER. (a) On issuance of an order under Section 11.452 of this chapter directing appointment of a watermaster, the executive director shall appoint a watermaster for the river basin or segment of the river basin covered by the commission order.

(b) A person appointed as a watermaster under this section may not be:

(1) the holder of a water right in the river basin or segment of the river basin to be under his jurisdiction as watermaster;

(2) a purchaser of water from the holder of a water right in the river basin or segment of the river basin under his jurisdiction as watermaster; or

(3) a landowner of any land adjacent to the river or segment of the river under his jurisdiction as watermaster.

(c) A watermaster holds office until a successor is appointed. The executive director may remove a watermaster at any time.

(d) The executive director may employ assistant watermasters and other employees necessary to aid a watermaster in the discharge of his duties.

(e) In a segment or basin in which the office of watermaster is vacant, the executive director has the powers of a watermaster.

(f) The executive director shall supervise and generally direct the watermaster in the performance of his duties. A watermaster is responsible to the executive director for the proper performance of his duties.

(g) A person dissatisfied with any action of a watermaster may apply to the executive director for relief.

Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER. A watermaster as the agent of the commission and under the executive director's supervision shall:

(1) divide the water of the streams or other sources of supply of his segment or basin in accordance with the authorized water rights;

(2) regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of his segment or basin, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled; and

(3) perform any other duties and exercise any authority directed by the commission.

Sec. 11.455. ASSESSMENTS. The commission may assess the costs of the watermaster against all persons who hold water rights in the river basin or segment of the river basin under the watermaster's jurisdiction in accordance with Section 11.329 of this code.

Sec. 11.456. MAINTAINING CURRENT STATUS. (a) To protect water rights holders in a river basin or segment of a river basin during the proceedings under Section 11.452 of this code, the commission may issue an order or orders at the beginning of the proceedings under Section 11.452 of this code or may request the attorney general to seek injunctive relief to protect the water rights holders during the proceedings.

(b) On request of the commission, the attorney general shall seek injunctive relief to carry out the purpose of Subsection (a) of this section.

(c) The commission is not required to comply with the requirements of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) in issuing orders under Subsection (a) of this section and there is no right of appeal from those orders.

Sec. 11.457. ASSISTANCE TO WATERMASTER. The executive director shall provide the watermaster with such staff and facilities as are necessary to carry out this subchapter.

Sec. 11.458. APPLICATION OF SUBCHAPTER. This subchapter shall not apply to any river basin or segment of a river basin in which a watermaster has been appointed pursuant to Subchapter G or H of this chapter.

SECTION 2. This Act takes effect September 1, 1987.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 30, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1787 on May 26, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 21, 1987, by a viva-voce vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.