

1-1 By: Perry S.B. No. 152  
1-2 (In the Senate - Filed November 10, 2020; March 3, 2021,  
1-3 read first time and referred to Committee on Water, Agriculture &  
1-4 Rural Affairs; March 25, 2021, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
1-6 March 25, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 152 By: Perry

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the regulation of groundwater conservation districts.  
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-23 SECTION 1. Section 36.066, Water Code, is amended by  
1-24 amending Subsection (g) and adding Subsection (i) to read as  
1-25 follows:  
1-26 (g) If the district prevails in any suit other than a suit in  
1-27 which it voluntarily intervenes, the district may seek and the  
1-28 court may ~~shall~~ grant, in the interests of justice and as provided  
1-29 by Subsection (h), in the same action, recovery for attorney's  
1-30 fees, costs for expert witnesses, and other costs incurred by the  
1-31 district before the court. The amount of the attorney's fees shall  
1-32 be fixed by the court.  
1-33 (i) Notwithstanding Section 36.052(a), Subsections (g) and  
1-34 (h) of this section prevail over any other special law inconsistent  
1-35 with those subsections unless the other law prohibits an award of  
1-36 attorney's fees or costs.  
1-37 SECTION 2. Subchapter D, Chapter 36, Water Code, is amended  
1-38 by adding Section 36.1025 to read as follows:  
1-39 Sec. 36.1025. PETITION TO CHANGE RULES. (a) A person with  
1-40 a real property interest in groundwater may petition the district  
1-41 where the property that gives rise to the real property interest is  
1-42 located to adopt a rule or modify a rule adopted under this chapter.  
1-43 (b) The district by rule shall prescribe the form for a  
1-44 petition submitted under this section and the procedure for the  
1-45 submission, consideration, and disposition of the petition.  
1-46 (c) Not later than the 90th day after the date the district  
1-47 receives the petition, the district shall:  
1-48 (1) deny the petition and provide an explanation for  
1-49 the denial; or  
1-50 (2) engage in rulemaking consistent with the granted  
1-51 petition.  
1-52 (d) Nothing in this section may be construed to create a  
1-53 private cause of action for a decision to accept or deny a petition  
1-54 filed under this section.  
1-55 SECTION 3. Section 36.1071, Water Code, is amended by  
1-56 amending Subsection (b) and adding Subsections (b-1) and (b-2) to  
1-57 read as follows:  
1-58 (b) The management plan, or any amendments to the plan,  
1-59 shall:  
1-60 (1) be developed using the district's best available

2-1 data and forwarded to the regional water planning group for use in  
2-2 their planning process; and

2-3 (2) include the:

2-4 (A) most recently approved desired future  
2-5 conditions adopted under Section 36.108; and

2-6 (B) amount of modeled available groundwater  
2-7 corresponding to the most recently approved desired future  
2-8 conditions.

2-9 (b-1) A district shall amend a management plan before the  
2-10 second anniversary of the adoption of desired future conditions  
2-11 included under Subsection (b).

2-12 (b-2) If a petition challenging the reasonableness of a  
2-13 desired future condition is filed under Section 36.1083(b), the  
2-14 executive administrator shall consider the management plan  
2-15 administratively complete if the district includes:

2-16 (1) the most recently approved desired future  
2-17 conditions adopted under Section 36.108;

2-18 (2) the amount of modeled available groundwater  
2-19 corresponding to the desired future conditions;

2-20 (3) a statement of the status of the petition  
2-21 challenging the reasonableness of a desired future condition; and

2-22 (4) the information required by Subsections (a) and  
2-23 (e).

2-24 SECTION 4. Subchapter D, Chapter 36, Water Code, is amended  
2-25 by adding Section 36.1141 to read as follows:

2-26 Sec. 36.1141. NOTICE REQUIRED FOR APPLICATION FOR PERMIT OR  
2-27 PERMIT AMENDMENT. (a) Except as provided by Subsection (b), a  
2-28 district that has adopted rules regulating the spacing of wells  
2-29 under Section 36.116(a)(1) to require wells to be spaced a certain  
2-30 distance from other wells shall adopt rules requiring that notice  
2-31 of an application for a permit or permit amendment to drill a well  
2-32 or increase the production capacity of an existing well be provided  
2-33 to each landowner whose:

2-34 (1) land is located wholly or partly within the  
2-35 spacing distances from other wells under the spacing rules of the  
2-36 district; and

2-37 (2) right to obtain a permit or permit amendment for a  
2-38 well of a certain size or location under the spacing rules of the  
2-39 district will be affected if the district approves the application.

2-40 (b) Notice is not required under Subsection (a):

2-41 (1) for a replacement well to be drilled at or near the  
2-42 location of the well which it is intended to replace that has an  
2-43 equal or lesser production capacity than the well which it is  
2-44 intended to replace as determined by the rules of the district;

2-45 (2) for an emergency well necessary to mitigate a loss  
2-46 of production capacity of an existing well as determined by the  
2-47 rules of the district;

2-48 (3) if the notice is to be provided to the lessors of  
2-49 the right to produce groundwater from a property where the  
2-50 applicant for the permit or permit amendment is the lessee; or

2-51 (4) if the district:

2-52 (A) posts in a place readily accessible to the  
2-53 public at the district's main office a list of the applications  
2-54 described by Subsection (a) that includes the name of the applicant  
2-55 and address or approximate location of the well or proposed well;  
2-56 and

2-57 (B) posts on the home page of the district's  
2-58 Internet website, if the district operates an Internet website:

2-59 (i) a list described by Paragraph (A); or

2-60 (ii) a link to a web application that  
2-61 includes the information included on a list described by Paragraph  
2-62 (A).

2-63 SECTION 5. Section 36.066, Water Code, as amended by this  
2-64 Act, applies only to a suit involving a groundwater conservation  
2-65 district that is filed on or after the effective date of this Act. A  
2-66 suit filed before the effective date of this Act is subject to the  
2-67 law in effect on the date the suit is filed, and that law is  
2-68 continued in effect for that purpose.

2-69 SECTION 6. Not later than December 1, 2021, a groundwater

3-1 conservation district shall adopt rules to implement Section  
3-2 36.1025, Water Code, as added by this Act.

3-3 SECTION 7. The changes in law made by this Act applicable to  
3-4 a petition filed under Section 36.1083, Water Code, apply only to a  
3-5 petition filed under that section on or after the effective date of  
3-6 this Act. A petition filed before the effective date of this Act is  
3-7 governed by the law in effect on the date the hearing was conducted,  
3-8 and the former law is continued in effect for that purpose.

3-9 SECTION 8. Section 36.1141, Water Code, as added by this  
3-10 Act, applies only to an application for a permit or permit amendment  
3-11 submitted on or after the effective date of this Act. An  
3-12 application submitted before the effective date of this Act is  
3-13 subject to the law in effect on the date the application is  
3-14 submitted, and that law is continued in effect for that purpose.

3-15 SECTION 9. This Act takes effect September 1, 2021.

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