

By: Ashby

H.B. No. 1971

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the procedures for acting on a permit or permit
3 amendment application by a groundwater conservation district and
4 the disqualification of board members of groundwater conservation
5 districts.

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

7 SECTION 1. Section 36.051, Water Code, is amended by adding
8 Subsection (b-1) to read as follows:

9 (b-1) A director is disqualified and vacates the office of
10 director if the director is recused from voting on more than one
11 application for a permit or permit amendment or fails to attend two
12 consecutive meetings of the board.

13 SECTION 2. Section 36.053, Water Code, is amended to read as
14 follows:

15 Sec. 36.053. QUORUM. (a) Except as provided by Subsection
16 (b), a [A] majority of the membership of the board constitutes a
17 quorum for any meeting, and a concurrence of a majority of the
18 entire membership of the board is sufficient for transacting any
19 business of the district.

20 (b) For the purposes of making a final decision on a permit
21 or permit amendment application, a board member who is recused from
22 voting does not count towards the quorum requirement under
23 Subsection (a).

24 SECTION 3. Section 36.409, Water Code, is amended to read as

1 follows:

2 Sec. 36.409. CONTINUANCE. (a) The presiding officer may
3 continue a hearing from time to time and from place to place without
4 providing notice under Section 36.404.

5 (b) If the presiding officer continues a hearing without
6 announcing at the hearing the time, date, and location of the
7 continued hearing, the presiding officer must provide notice of the
8 continued hearing by regular mail to the parties.

9 (c) A continuance may not exceed the time limit for the
10 issuance of a final decision under Section 36.4165.

11 SECTION 4. Section 36.411, Water Code, is amended to read as
12 follows:

13 Sec. 36.411. BOARD ACTION. (a) The board shall act on a
14 permit or permit amendment application not later than the 60th day
15 after the date the final hearing on the application is concluded.

16 (b) The board shall ensure a decision on a permit or permit
17 amendment application is timely rendered in accordance with the
18 provisions set forth in this chapter.

19 SECTION 5. Section 36.412, Water Code, is amended by
20 amending Subsections (a) and (b) and adding Subsections (a-1) and
21 (b-1) to read as follows:

22 (a) An applicant in a contested or uncontested hearing on an
23 application or a party to a contested hearing may administratively
24 appeal a decision of the board on a permit or permit amendment
25 application by making a request in writing to the board.

26 (a-1) A party seeking to appeal a decision by the board must
27 request [~~by requesting~~] written findings and conclusions not later

1 than the 20th day after the date of the board's decision. This
2 subsection does not apply to a decision issued under Section
3 36.4165(e).

4 (b) On receipt of a timely written request under Subsection
5 (a-1), the board shall make written findings and conclusions
6 regarding a decision of the board on a permit or permit amendment
7 application. The board shall provide certified copies of the
8 findings and conclusions to the person who requested them, and to
9 each designated party, not later than the 35th day after the date
10 the board receives the request.

11 (b-1) A party to a contested hearing may request a rehearing
12 not later than the 20th day after the date the board issues the
13 findings and conclusions.

14 SECTION 6. Section 36.413(a), Water Code, is amended to
15 read as follows:

16 (a) A decision by the board on a permit or permit amendment
17 application is final if:

18 (1) [~~if~~] a request for rehearing is not filed on time,
19 on the expiration of the period for filing a request for rehearing;
20 [~~or~~]

21 (2) [~~if~~] a request for rehearing is filed on time, on
22 the date:

23 (A) the board denies the request for rehearing;

24 or

25 (B) the board renders a written decision after
26 rehearing; or

27 (3) the decision is issued under Section 36.4165(e).

1 SECTION 7. Section 36.4165, Water Code, is amended by
2 adding Subsections (c), (d), (e), and (f) to read as follows:

3 (c) A final decision issued by the board under this section
4 must be in writing and must either adopt the proposed findings of
5 fact and conclusions of law as proposed by the administrative law
6 judge or include revised findings of fact and conclusions of law
7 consistent with Subsection (b). A request from a party for findings
8 of fact or conclusions of law is not required under this section.

9 (d) Notwithstanding any other law, a board shall issue a
10 final decision under this section, including final disposition of
11 all motions for rehearing, not later than the 180th day after the
12 date of receipt of the proposal for a final decision unless
13 otherwise agreed to by the applicant.

14 (e) If the administrative law judge recommends granting one
15 or more permit or permit amendment applications and the board fails
16 to issue a final decision as required by Subsection (d), the board
17 is considered to have adopted the recommendations of the
18 administrative law judge as a final order on the 181st day after the
19 date the administrative law judge issued the recommendation.

20 (f) A decision under Subsection (e) is final, immediately
21 appealable, and not subject to a motion for rehearing.

22 SECTION 8. (a) The changes in law made by this Act apply to
23 an application for a permit or permit amendment submitted on or
24 after the effective date of this Act. An application for a permit
25 or permit amendment submitted before the effective date of this Act
26 is governed by the law in effect at the time the application was
27 submitted, and the former law is continued in effect for that

1 purpose.

2 (b) A decision under Section 36.4165, Water Code, for which
3 an administrative law judge recommends granting a permit or permit
4 amendment application that has been pending before a district for
5 more than 180 days on the effective date of this Act is considered
6 adopted as a final order subject to immediate appeal and not subject
7 to a motion for rehearing.

8 SECTION 9. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2023.