

By: Springer

S.B. No. 638

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 36.053, Water Code, is amended to read as follows:

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

(b) For the purposes of making a final decision on a permit or permit amendment application by a board composed of 10 or more directors, a concurrence of a majority of the directors eligible to vote is sufficient for taking an action on the application.

SECTION 2. Section 36.058, Water Code, is amended to read as follows:

Sec. 36.058. CONFLICTS OF INTEREST. (a) A director of a district is subject to the provisions of Chapters 171 and 176, Local Government Code, relating to the regulation of conflicts of officers of local governments.

(b) If a director is required to file an affidavit under

1 Section 171.004(a), Local Government Code, the director may not:

2 (1) attend a closed meeting related to the matter for
3 which the director is required to file the affidavit; and

4 (2) vote on a matter for which the director is required
5 to file the affidavit unless a majority of the directors are also
6 required to file an affidavit related to a similar interest on the
7 same official action.

8 SECTION 3. Section 36.409, Water Code, is amended to read as
9 follows:

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

13 (b) If the presiding officer continues a hearing without
14 announcing at the hearing the time, date, and location of the
15 continued hearing, the presiding officer must provide notice of the
16 continued hearing by regular mail to the parties.

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

19 SECTION 4. Section 36.411, Water Code, is amended to read as
20 follows:

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

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

27 SECTION 5. The heading to Section 36.412, Water Code, is

1 amended to read as follows:

2 Sec. 36.412. REQUEST FOR REHEARING OR FINDINGS OF FACT AND
3 CONCLUSIONS OF LAW.

4 SECTION 6. Section 36.412, Water Code, is amended by
5 amending Subsections (a) and (b) and adding Subsections (a-1),
6 (b-1), and (f) to read as follows:

7 (a) An applicant in a contested or uncontested hearing on an
8 application or a party to a contested hearing may administratively
9 appeal a decision of the board on a permit or permit amendment
10 application by making a request in writing to the board.

11 (a-1) A party seeking to appeal a decision by the board must
12 request [by requesting] written findings of fact and conclusions of
13 law not later than the 20th day after the date of the board's
14 decision unless the board issued findings of fact and conclusions
15 of law as part of the final decision.

16 (b) On receipt of a timely written request under Subsection
17 (a-1), the board shall make written findings of fact and
18 conclusions of law regarding a decision of the board on a permit or
19 permit amendment application. The board shall provide certified
20 copies of the findings of fact and conclusions of law to the person
21 who requested them, and to each designated party, not later than the
22 35th day after the date the board receives the request.

23 (b-1) A party to a contested hearing may request a rehearing
24 not later than the 20th day after the date the board issues the
25 findings of fact and conclusions of law.

26 (f) The board shall consolidate requests for rehearing
27 filed by multiple parties to the contested case hearing, but only

1 one rehearing may be considered per matter.

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

4 (c) A final decision issued by the board under this section
5 must be in writing and must either adopt the proposed findings of
6 fact and conclusions of law as proposed by the administrative law
7 judge or include revised findings of fact and conclusions of law
8 consistent with Subsection (b).

9 (d) Notwithstanding any other law, a board shall issue a
10 final decision under this section not later than the 180th day after
11 the date of receipt of the final proposal for decision from the
12 State Office of Administrative Hearings. The deadline may be
13 extended if all parties agree to the extension.

14 (e) Notwithstanding any other law, if a motion for rehearing
15 is filed and granted by a board under Section 36.412, the board
16 shall make a final decision on the application not later than the
17 90th day after the date of the decision by the board that was
18 subject to the motion for rehearing.

19 (f) A board is considered to have adopted a final proposal
20 for decision of the administrative law judge as a final order on the
21 181st day after the date the administrative law judge issued the
22 final proposal for decision if the board has not issued a final
23 decision by:

24 (1) adopting the findings of fact and conclusions of
25 law as proposed by the administrative law judge; or

26 (2) issuing revised findings of fact and conclusions
27 of law as provided by Subsection (b).

1 (g) A proposal for decision adopted under Subsection (f) is
2 final, immediately appealable, and not subject to a request for
3 rehearing.

4 SECTION 8. The changes in law made by this Act apply to an
5 application for a permit or permit amendment submitted on or after
6 the effective date of this Act. An application for a permit or
7 permit amendment submitted before the effective date of this Act is
8 governed by the law in effect at the time the application was
9 submitted, and the former law is continued in effect for that
10 purpose.

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