

1-1 By: Cook of Colorado, Hope H.B. No. 1763
1-2 (Senate Sponsor - Duncan)
1-3 (In the Senate - Received from the House May 13, 2005;
1-4 May 16, 2005, read first time and referred to Committee on Natural
1-5 Resources; May 19, 2005, reported favorably by the following vote:
1-6 Yeas 7, Nays 0; May 19, 2005, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the notice, hearing, rulemaking, and permitting
1-10 procedures for groundwater conservation districts.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 36.101, Water Code, is amended by
1-13 amending Subsection (b) and adding Subsections (d)-(1) to read as
1-14 follows:

1-15 (b) Except as provided by Section 36.1011, after [After]
1-16 notice and hearing, the board shall adopt and enforce rules to
1-17 implement this chapter, including rules governing procedure before
1-18 the board. [Notice in this section shall include publication of the
1-19 agenda of the hearing in one or more newspapers of general
1-20 circulation in the county or counties in which the district is
1-21 located.]

1-22 (d) Not later than the 20th day before the date of a
1-23 rulemaking hearing, the general manager or board shall:

1-24 (1) post notice in a place readily accessible to the
1-25 public at the district office;

1-26 (2) provide notice to the county clerk of each county
1-27 in the district;

1-28 (3) publish notice in one or more newspapers of
1-29 general circulation in the county or counties in which the district
1-30 is located;

1-31 (4) provide notice by mail, facsimile, or electronic
1-32 mail to any person who has requested notice under Subsection (i);
1-33 and

1-34 (5) make available a copy of all proposed rules at a
1-35 place accessible to the public during normal business hours and, if
1-36 the district has a website, post an electronic copy on a generally
1-37 accessible Internet site.

1-38 (e) The notice provided under Subsection (d) must include:

1-39 (1) the time, date, and location of the rulemaking
1-40 hearing;

1-41 (2) a brief explanation of the subject of the
1-42 rulemaking hearing; and

1-43 (3) a location or Internet site at which a copy of the
1-44 proposed rules may be reviewed or copied.

1-45 (f) The presiding officer shall conduct a rulemaking
1-46 hearing in the manner the presiding officer determines to be most
1-47 appropriate to obtain information and comments relating to the
1-48 proposed rule as conveniently and expeditiously as possible.
1-49 Comments may be submitted orally at the hearing or in writing. The
1-50 presiding officer may hold the record open for a specified period
1-51 after the conclusion of the hearing to receive additional written
1-52 comments.

1-53 (g) A district may require each person who participates in a
1-54 rulemaking hearing to submit a hearing registration form stating:

1-55 (1) the person's name;

1-56 (2) the person's address; and

1-57 (3) whom the person represents, if the person is not at
1-58 the hearing in the person's individual capacity.

1-59 (h) The presiding officer shall prepare and keep a record of
1-60 each rulemaking hearing in the form of an audio or video recording
1-61 or a court reporter transcription.

1-62 (i) A person may submit to the district a written request
1-63 for notice of a rulemaking hearing. A request is effective for the
1-64 remainder of the calendar year in which the request is received by

2-1 the district. To receive notice of a rulemaking hearing in a later
 2-2 year, a person must submit a new request. An affidavit of an
 2-3 officer or employee of the district establishing attempted service
 2-4 by first class mail, facsimile, or e-mail to the person in
 2-5 accordance with the information provided by the person is proof
 2-6 that notice was provided by the district.

2-7 (j) A district may use an informal conference or
 2-8 consultation to obtain the opinions and advice of interested
 2-9 persons about contemplated rules and may appoint advisory
 2-10 committees of experts, interested persons, or public
 2-11 representatives to advise the district about contemplated rules.

2-12 (k) Failure to provide notice under Subsection (d)(4) does
 2-13 not invalidate an action taken by the district at a rulemaking
 2-14 hearing.

2-15 (l) Subsections (b)-(k) do not apply to the Edwards Aquifer
 2-16 Authority.

2-17 SECTION 2. Subchapter D, Chapter 36, Water Code, is amended
 2-18 by adding Section 36.1011 to read as follows:

2-19 Sec. 36.1011. EMERGENCY RULES. (a) A board may adopt an
 2-20 emergency rule without prior notice or hearing, or with an
 2-21 abbreviated notice and hearing, if the board:

2-22 (1) finds that a substantial likelihood of imminent
 2-23 peril to the public health, safety, or welfare, or a requirement of
 2-24 state or federal law, requires adoption of a rule on less than 20
 2-25 days' notice; and

2-26 (2) prepares a written statement of the reasons for
 2-27 its finding under Subdivision (1).

2-28 (b) Except as provided by Subsection (c), a rule adopted
 2-29 under this section may not be effective for longer than 90 days.

2-30 (c) If notice of a hearing on the final rule is given not
 2-31 later than the 90th day after the date the rule is adopted, the rule
 2-32 is effective for an additional 90 days.

2-33 (d) A rule adopted under this section must be adopted at a
 2-34 meeting held as provided by Chapter 551, Government Code.

2-35 (e) This section does not apply to the Edwards Aquifer
 2-36 Authority.

2-37 SECTION 3. Sections 36.113 and 36.114, Water Code, are
 2-38 amended to read as follows:

2-39 Sec. 36.113. PERMITS FOR WELLS; PERMIT AMENDMENTS. (a)
 2-40 Except as provided by Section 36.117, a [A] district shall require a
 2-41 permit [~~permits~~] for the drilling, equipping, operating, or
 2-42 completing of wells or for substantially altering the size of wells
 2-43 or well pumps. A district may require that a change in the
 2-44 withdrawal or use of groundwater during the term of a permit issued
 2-45 by the district may not be made unless the district has first
 2-46 approved a permit amendment authorizing the change.

2-47 (a-1) A district may not require a permit or a permit
 2-48 amendment for maintenance or repair of a well if the maintenance or
 2-49 repair does not increase the production capabilities of the well to
 2-50 more than its authorized or permitted production rate.

2-51 (b) A district shall require that an application for a
 2-52 permit or a permit amendment be in writing and sworn to.

2-53 (c) A district may require that the following be included in
 2-54 the permit or permit amendment application:

2-55 (1) the name and mailing address of the applicant and
 2-56 the owner of the land on which the well will be located;

2-57 (2) if the applicant is other than the owner of the
 2-58 property, documentation establishing the applicable authority to
 2-59 construct and operate a well for the proposed use;

2-60 (3) a statement of the nature and purpose of the
 2-61 proposed use and the amount of water to be used for each purpose;

2-62 (4) a water conservation plan or a declaration that
 2-63 the applicant will comply with the district's management plan;

2-64 (5) the location of each well and the estimated rate at
 2-65 which water will be withdrawn;

2-66 (6) a water well closure plan or a declaration that the
 2-67 applicant will comply with well plugging guidelines and report
 2-68 closure to the commission; and

2-69 (7) a drought contingency plan.

3-1 (d) Before granting or denying a permit or permit amendment,
 3-2 the district shall consider whether:

3-3 (1) the application conforms to the requirements
 3-4 prescribed by this chapter and is accompanied by the prescribed
 3-5 fees;

3-6 (2) the proposed use of water unreasonably affects
 3-7 existing groundwater and surface water resources or existing permit
 3-8 holders;

3-9 (3) the proposed use of water is dedicated to any
 3-10 beneficial use;

3-11 (4) the proposed use of water is consistent with the
 3-12 district's certified water management plan;

3-13 (5) the applicant has agreed to avoid waste and
 3-14 achieve water conservation; and

3-15 (6) the applicant has agreed that reasonable diligence
 3-16 will be used to protect groundwater quality and that the applicant
 3-17 will follow well plugging guidelines at the time of well closure.

3-18 (e) The district may impose more restrictive permit
 3-19 conditions on new permit applications and permit amendment
 3-20 applications to increase [~~increased~~] use by historic users if the
 3-21 limitations:

3-22 (1) apply to all subsequent new permit applications
 3-23 and permit amendment applications to increase [~~increased~~] use by
 3-24 historic users, regardless of type or location of use;

3-25 (2) bear a reasonable relationship to the existing
 3-26 district management plan; and

3-27 (3) are reasonably necessary to protect existing use.

3-28 (f) Permits and permit amendments may be issued subject to
 3-29 the rules promulgated by the district and subject to terms and
 3-30 provisions with reference to the drilling, equipping, completion,
 3-31 [~~or~~] alteration, or operation of, or production of groundwater
 3-32 from, [~~of~~] wells or pumps that may be necessary to prevent waste and
 3-33 achieve water conservation, minimize as far as practicable the
 3-34 drawdown of the water table or the reduction of artesian pressure,
 3-35 lessen interference between wells, or control and prevent
 3-36 subsidence.

3-37 [~~(g) A district may require that changes in the withdrawal~~
 3-38 ~~and use of groundwater under a permit not be made without the prior~~
 3-39 ~~approval of a permit amendment issued by the district.]~~

3-40 Sec. 36.114. PERMIT; PERMIT AMENDMENT; APPLICATION AND
 3-41 HEARING. (a) The district by rule shall determine each activity
 3-42 regulated by the district for which a permit or permit amendment is
 3-43 required.

3-44 (b) For each activity for which the district determines a
 3-45 permit or permit amendment is required under Subsection (a), the
 3-46 district by rule shall determine whether a hearing on the permit or
 3-47 permit amendment application is required.

3-48 (c) For all applications for which a hearing is not required
 3-49 under Subsection (b), the board shall act on the application at a
 3-50 meeting, as defined by Section 551.001, Government Code, unless the
 3-51 board by rule has delegated to the general manager the authority to
 3-52 act on the application.

3-53 (d) The district shall promptly consider and act on each
 3-54 administratively complete application for a permit or permit
 3-55 amendment as provided by Subsection (c) or Subchapter M.

3-56 (e) If, within 60 [~~30~~] days after the date an [~~the~~]
 3-57 administratively complete application is submitted, the [~~an~~]
 3-58 application has not been acted on or set for a hearing on a specific
 3-59 date, the applicant may petition the district court of the county
 3-60 where the land is located for a writ of mandamus to compel the
 3-61 district to act on the application or set a date for a hearing on the
 3-62 application, as appropriate.

3-63 (f) For applications requiring a hearing, the initial [~~A~~]
 3-64 hearing shall be held within 35 days after the setting of the date,
 3-65 and the district shall act on the application within 60 [~~35~~]
 3-66 days after the date [~~of~~] the final hearing on the application is
 3-67 concluded.

3-68 (g) The district may by rule set a time when an application
 3-69 will expire if the information requested in the application is not

4-1 provided to the district.

4-2 (h) An administratively complete application requires
 4-3 information set forth in accordance with Sections 36.113 and
 4-4 36.1131.

4-5 SECTION 4. Subchapter L, Chapter 36, Water Code, is amended
 4-6 by adding Section 36.3705 to read as follows:

4-7 Sec. 36.3705. DEFINITION. In this subchapter, "applicant"
 4-8 means a newly confirmed district applying for a loan from the loan
 4-9 fund.

4-10 SECTION 5. Chapter 36, Water Code, is amended by adding
 4-11 Subchapter M to read as follows:

4-12 SUBCHAPTER M. PERMIT AND PERMIT AMENDMENT APPLICATIONS;
 4-13 NOTICE AND HEARING PROCESS

4-14 Sec. 36.401. DEFINITION. In this subchapter, "applicant"
 4-15 means a person who is applying for a permit or a permit amendment.

4-16 Sec. 36.402. APPLICABILITY. Except as provided by Section
 4-17 36.416, this subchapter applies to the notice and hearing process
 4-18 used by a district for permit and permit amendment applications.

4-19 Sec. 36.403. SCHEDULING OF HEARING. (a) The general
 4-20 manager or board may schedule a hearing on permit or permit
 4-21 amendment applications received by the district as necessary, as
 4-22 provided by Section 36.114.

4-23 (b) The general manager or board may schedule more than one
 4-24 application for consideration at a hearing.

4-25 (c) A hearing must be held at the district office or regular
 4-26 meeting location of the board unless the board provides for
 4-27 hearings to be held at a different location.

4-28 (d) A hearing may be held in conjunction with a regularly
 4-29 scheduled board meeting.

4-30 Sec. 36.404. NOTICE. (a) If the general manager or board
 4-31 schedules a hearing on an application for a permit or permit
 4-32 amendment, the general manager or board shall give notice of the
 4-33 hearing as provided by this section.

4-34 (b) The notice must include:

4-35 (1) the name of the applicant;
 4-36 (2) the address or approximate location of the well or
 4-37 proposed well;

4-38 (3) a brief explanation of the proposed permit or
 4-39 permit amendment, including any requested amount of groundwater,
 4-40 the purpose of the proposed use, and any change in use;

4-41 (4) the time, date, and location of the hearing; and

4-42 (5) any other information the general manager or board
 4-43 considers relevant and appropriate.

4-44 (c) Not later than the 10th day before the date of a hearing,
 4-45 the general manager or board shall:

4-46 (1) post notice in a place readily accessible to the
 4-47 public at the district office;

4-48 (2) provide notice to the county clerk of each county
 4-49 in the district; and

4-50 (3) provide notice by:

4-51 (A) regular mail to the applicant;
 4-52 (B) regular mail, facsimile, or electronic mail
 4-53 to any person who has requested notice under Subsection (d); and

4-54 (C) regular mail to any other person entitled to
 4-55 receive notice under the rules of the district.

4-56 (d) A person may request notice from the district of a
 4-57 hearing on a permit or a permit amendment application. The request
 4-58 must be in writing and is effective for the remainder of the
 4-59 calendar year in which the request is received by the district. To
 4-60 receive notice of a hearing in a later year, a person must submit a
 4-61 new request. An affidavit of an officer or employee of the district
 4-62 establishing attempted service by first class mail, facsimile, or
 4-63 e-mail to the person in accordance with the information provided by
 4-64 the person is proof that notice was provided by the district.

4-65 (e) Failure to provide notice under Subsection (c)(3)(B)
 4-66 does not invalidate an action taken by the district at the hearing.

4-67 Sec. 36.405. HEARING REGISTRATION. The district may
 4-68 require each person who participates in a hearing to submit a
 4-69 hearing registration form stating:

5-1 (1) the person's name;
 5-2 (2) the person's address; and
 5-3 (3) whom the person represents, if the person is not
 5-4 there in the person's individual capacity.

5-5 Sec. 36.406. HEARING PROCEDURES. (a) A hearing must be
 5-6 conducted by:

5-7 (1) a quorum of the board; or
 5-8 (2) an individual to whom the board has delegated in
 5-9 writing the responsibility to preside as a hearings examiner over
 5-10 the hearing or matters related to the hearing.

5-11 (b) Except as provided by Subsection (c), the board
 5-12 president or the hearings examiner shall serve as the presiding
 5-13 officer at the hearing.

5-14 (c) If the hearing is conducted by a quorum of the board and
 5-15 the board president is not present, the directors conducting the
 5-16 hearing may select a director to serve as the presiding officer.

5-17 (d) The presiding officer may:
 5-18 (1) convene the hearing at the time and place
 5-19 specified in the notice;

5-20 (2) set any necessary additional hearing dates;
 5-21 (3) designate the parties regarding a contested
 5-22 application;

5-23 (4) establish the order for presentation of evidence;
 5-24 (5) administer oaths to all persons presenting
 5-25 testimony;

5-26 (6) examine persons presenting testimony;
 5-27 (7) ensure that information and testimony are
 5-28 introduced as conveniently and expeditiously as possible without
 5-29 prejudicing the rights of any party;

5-30 (8) prescribe reasonable time limits for testimony and
 5-31 the presentation of evidence; and

5-32 (9) exercise the procedural rules adopted under
 5-33 Section 36.415.

5-34 (e) Except as provided by a rule adopted under Section
 5-35 36.415, a district may allow any person, including the general
 5-36 manager or a district employee, to provide comments at a hearing on
 5-37 an uncontested application.

5-38 (f) The presiding officer may allow testimony to be
 5-39 submitted in writing and may require that written testimony be
 5-40 sworn to. On the motion of a party to the hearing, the presiding
 5-41 officer may exclude written testimony if the person who submits the
 5-42 testimony is not available for cross-examination by phone, a
 5-43 deposition before the hearing, or other reasonable means.

5-44 (g) If the board has not acted on the application, the
 5-45 presiding officer may allow a person who testifies at the hearing to
 5-46 supplement the testimony given at the hearing by filing additional
 5-47 written materials with the presiding officer not later than the
 5-48 10th day after the date of the hearing. A person who files
 5-49 additional written material with the presiding officer under this
 5-50 subsection must also provide the material, not later than the 10th
 5-51 day after the date of the hearing, to any person who provided
 5-52 comments on an uncontested application or any party to a contested
 5-53 hearing. A person who receives additional written material under
 5-54 this subsection may file a response to the material with the
 5-55 presiding officer not later than the 10th day after the date the
 5-56 material was received.

5-57 (h) The district by rule adopted under Section 36.417 may
 5-58 authorize the presiding officer, at the presiding officer's
 5-59 discretion, to issue an order at any time before board action under
 5-60 Section 36.411 that:

5-61 (1) refers parties to a contested hearing to an
 5-62 alternative dispute resolution procedure on any matter at issue in
 5-63 the hearing;

5-64 (2) determines how the costs of the procedure shall be
 5-65 apportioned among the parties; and

5-66 (3) appoints an impartial third party as provided by
 5-67 Section 2009.053, Government Code, to facilitate that procedure.

5-68 Sec. 36.407. EVIDENCE. (a) The presiding officer shall
 5-69 admit evidence that is relevant to an issue at the hearing.

6-1 (b) The presiding officer may exclude evidence that is
 6-2 irrelevant, immaterial, or unduly repetitious.

6-3 Sec. 36.408. RECORDING. (a) Except as provided by
 6-4 Subsection (b), the presiding officer shall prepare and keep a
 6-5 record of each hearing in the form of an audio or video recording or
 6-6 a court reporter transcription. On the request of a party to a
 6-7 contested hearing, the presiding officer shall have the hearing
 6-8 transcribed by a court reporter. The presiding officer may assess
 6-9 any court reporter transcription costs against the party that
 6-10 requested the transcription or among the parties to the hearing.
 6-11 Except as provided by this subsection, the presiding officer may
 6-12 exclude a party from further participation in a hearing for failure
 6-13 to pay in a timely manner costs assessed against that party under
 6-14 this subsection. The presiding officer may not exclude a party from
 6-15 further participation in a hearing as provided by this subsection
 6-16 if the parties have agreed that the costs assessed against that
 6-17 party will be paid by another party.

6-18 (b) If a hearing is uncontested, the presiding officer may
 6-19 substitute minutes or the report required under Section 36.410 for
 6-20 a method of recording the hearing provided by Subsection (a).

6-21 Sec. 36.409. CONTINUANCE. The presiding officer may
 6-22 continue a hearing from time to time and from place to place without
 6-23 providing notice under Section 36.404. If the presiding officer
 6-24 continues a hearing without announcing at the hearing the time,
 6-25 date, and location of the continued hearing, the presiding officer
 6-26 must provide notice of the continued hearing by regular mail to the
 6-27 parties.

6-28 Sec. 36.410. REPORT. (a) Except as provided by Subsection
 6-29 (e), the presiding officer shall submit a report to the board not
 6-30 later than the 30th day after the date a hearing is concluded.

6-31 (b) The report must include:
 6-32 (1) a summary of the subject matter of the hearing;
 6-33 (2) a summary of the evidence or public comments
 6-34 received; and
 6-35 (3) the presiding officer's recommendations for board
 6-36 action on the subject matter of the hearing.

6-37 (c) The presiding officer or general manager shall provide a
 6-38 copy of the report to:

6-39 (1) the applicant; and
 6-40 (2) each person who provided comments or each
 6-41 designated party.

6-42 (d) A person who receives a copy of the report under
 6-43 Subsection (c) may submit to the board written exceptions to the
 6-44 report.

6-45 (e) If the hearing was conducted by a quorum of the board and
 6-46 if the presiding officer prepared a record of the hearing as
 6-47 provided by Section 36.408(a), the presiding officer shall
 6-48 determine whether to prepare and submit a report to the board under
 6-49 this section.

6-50 Sec. 36.411. BOARD ACTION. The board shall act on a permit
 6-51 or permit amendment application not later than the 60th day after
 6-52 the date the final hearing on the application is concluded.

6-53 Sec. 36.412. REQUEST FOR REHEARING OR FINDINGS AND
 6-54 CONCLUSIONS. (a) An applicant in a contested or uncontested
 6-55 hearing on an application or a party to a contested hearing may
 6-56 administratively appeal a decision of the board on a permit or
 6-57 permit amendment application by requesting written findings and
 6-58 conclusions or a rehearing before the board not later than the 20th
 6-59 day after the date of the board's decision.

6-60 (b) On receipt of a timely written request, the board shall
 6-61 make written findings and conclusions regarding a decision of the
 6-62 board on a permit or permit amendment application. The board shall
 6-63 provide certified copies of the findings and conclusions to the
 6-64 person who requested them, and to each person who provided comments
 6-65 or each designated party, not later than the 35th day after the date
 6-66 the board receives the request. A person who receives a certified
 6-67 copy of the findings and conclusions from the board may request a
 6-68 rehearing before the board not later than the 20th day after the
 6-69 date the board issues the findings and conclusions.

7-1 (c) A request for rehearing must be filed in the district
 7-2 office and must state the grounds for the request. If the original
 7-3 hearing was a contested hearing, the person requesting a rehearing
 7-4 must provide copies of the request to all parties to the hearing.

7-5 (d) If the board grants a request for rehearing, the board
 7-6 shall schedule the rehearing not later than the 45th day after the
 7-7 date the request is granted.

7-8 (e) The failure of the board to grant or deny a request for
 7-9 rehearing before the 91st day after the date the request is
 7-10 submitted is a denial of the request.

7-11 Sec. 36.413. DECISION; WHEN FINAL. (a) A decision by the
 7-12 board on a permit or permit amendment application is final:

7-13 (1) if a request for rehearing is not filed on time, on
 7-14 the expiration of the period for filing a request for rehearing; or

7-15 (2) if a request for rehearing is filed on time, on the
 7-16 date:

7-17 (A) the board denies the request for rehearing;
 7-18 or

7-19 (B) the board renders a written decision after
 7-20 rehearing.

7-21 (b) Except as provided by Subsection (c), an applicant or a
 7-22 party to a contested hearing may file a suit against the district
 7-23 under Section 36.251 to appeal a decision on a permit or permit
 7-24 amendment application not later than the 60th day after the date on
 7-25 which the decision becomes final.

7-26 (c) An applicant or a party to a contested hearing may not
 7-27 file suit against the district under Section 36.251 if a request for
 7-28 rehearing was not filed on time.

7-29 Sec. 36.414. CONSOLIDATED HEARING ON APPLICATIONS. (a)
 7-30 Except as provided by Subsection (b), a district shall process
 7-31 applications from a single applicant under consolidated notice and
 7-32 hearing procedures on written request by the applicant if the
 7-33 district requires a separate permit or permit amendment application
 7-34 for:

7-35 (1) drilling, equipping, operating, or completing a
 7-36 well or substantially altering the size of a well or well pump under
 7-37 Section 36.113;

7-38 (2) the spacing of water wells or the production of
 7-39 groundwater under Section 36.116; or

7-40 (3) transferring groundwater out of a district under
 7-41 Section 36.122.

7-42 (b) A district is not required to use consolidated notice
 7-43 and hearing procedures to process separate permit or permit
 7-44 amendment applications from a single applicant if the board cannot
 7-45 adequately evaluate one application until it has acted on another
 7-46 application.

7-47 Sec. 36.415. RULES; ADDITIONAL PROCEDURES. (a) A district
 7-48 by rule shall adopt procedural rules to implement this subchapter
 7-49 and may adopt notice and hearing procedures in addition to those
 7-50 provided by this subchapter.

7-51 (b) In adopting the rules, a district shall:
 7-52 (1) define under what circumstances an application is
 7-53 considered contested; and

7-54 (2) limit participation in a hearing on a contested
 7-55 application to persons who have a personal justiciable interest
 7-56 related to a legal right, duty, privilege, power, or economic
 7-57 interest that is within a district's regulatory authority and
 7-58 affected by a permit or permit amendment application, not including
 7-59 persons who have an interest common to members of the public.

7-60 Sec. 36.416. HEARINGS CONDUCTED BY STATE OFFICE OF
 7-61 ADMINISTRATIVE HEARINGS. If a district contracts with the State
 7-62 Office of Administrative Hearings to conduct a hearing, the hearing
 7-63 shall be conducted as provided by Subchapters C, D, and F, Chapter
 7-64 2001, Government Code.

7-65 Sec. 36.417. RULES; ALTERNATIVE DISPUTE RESOLUTION. A
 7-66 district by rule may develop and use alternative dispute resolution
 7-67 procedures in the manner provided for governmental bodies under
 7-68 Chapter 2009, Government Code.

7-69 Sec. 36.418. APPLICABILITY OF ADMINISTRATIVE PROCEDURE

8-1 ACT. (a) A district may adopt rules establishing procedures for
8-2 contested hearings consistent with Subchapters C, D, and F, Chapter
8-3 2001, Government Code, including the authority to issue a subpoena,
8-4 require a deposition, or order other discovery.

8-5 (b) Except as provided by this section and Section 36.416,
8-6 Chapter 2001, Government Code, does not apply to a hearing under
8-7 this subchapter.

8-8 Sec. 36.419. EDWARDS AQUIFER AUTHORITY. (a) Except as
8-9 provided by Subsection (b), this subchapter does not apply to the
8-10 Edwards Aquifer Authority.

8-11 (b) Sections 36.412 and 36.413 apply to the Edwards Aquifer
8-12 Authority.

8-13 SECTION 6. Section 36.001(17), Water Code, is repealed.

8-14 SECTION 7. The change in law made by this Act applies only
8-15 to a permit or permit amendment application determined to be
8-16 administratively complete or a rulemaking hearing for which notice
8-17 is given by a groundwater conservation district on or after the
8-18 effective date of this Act. A permit or permit amendment
8-19 application determined to be administratively complete or a
8-20 rulemaking hearing for which notice was given by a groundwater
8-21 conservation district before the effective date of this Act is
8-22 governed by the law in effect at the time the application was
8-23 determined to be administratively complete or the notice was given,
8-24 and the former law is continued in effect for that purpose.

8-25 SECTION 8. This Act takes effect September 1, 2005.

8-26 * * * * *