

1-1 By: Duncan S.B. No. 344  
1-2 (In the Senate - Filed February 3, 2005; February 7, 2005,  
1-3 read first time and referred to Committee on Natural Resources;  
1-4 May 3, 2005, reported adversely, with favorable Committee  
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1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 344 By: Armbrister

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the notice, hearing, rulemaking, and permitting  
1-11 procedures for groundwater conservation districts.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 36.101, Water Code, is amended by  
1-14 amending Subsection (b) and adding Subsections (d) through (l) to  
1-15 read as follows:

1-16 (b) Except as provided by Section 36.1011, after [After]  
1-17 notice and hearing, the board shall adopt and enforce rules to  
1-18 implement this chapter, including rules governing procedure before  
1-19 the board. [Notice in this section shall include publication of the  
1-20 agenda of the hearing in one or more newspapers of general  
1-21 circulation in the county or counties in which the district is  
1-22 located.]

1-23 (d) Not later than the 20th day before the date of a  
1-24 rulemaking hearing, the general manager or board shall:

1-25 (1) post notice in a place readily accessible to the  
1-26 public at the district office;

1-27 (2) provide notice to the county clerk of each county  
1-28 in the district;

1-29 (3) publish notice in one or more newspapers of  
1-30 general circulation in the county or counties in which the district  
1-31 is located;

1-32 (4) provide notice by mail, facsimile, or electronic  
1-33 mail to any person who has requested notice under Subsection (i);  
1-34 and

1-35 (5) make available a copy of all proposed rules at a  
1-36 place accessible to the public during normal business hours and, if  
1-37 the district has a website, post an electronic copy on a generally  
1-38 accessible Internet site.

1-39 (e) The notice provided under Subsection (d) must include:

1-40 (1) the time, date, and location of the rulemaking  
1-41 hearing;

1-42 (2) a brief explanation of the subject of the  
1-43 rulemaking hearing; and

1-44 (3) a location or Internet site at which a copy of the  
1-45 proposed rules may be reviewed or copied.

1-46 (f) The presiding officer shall conduct a rulemaking  
1-47 hearing in the manner the presiding officer determines to be most  
1-48 appropriate to obtain information and comments relating to the  
1-49 proposed rule as conveniently and expeditiously as possible.  
1-50 Comments may be submitted orally at the hearing or in writing. The  
1-51 presiding officer may hold the record open for a specified period  
1-52 after the conclusion of the hearing to receive additional written  
1-53 comments.

1-54 (g) A district may require each person who participates in a  
1-55 rulemaking hearing to submit a hearing registration form stating:

1-56 (1) the person's name;

1-57 (2) the person's address; and

1-58 (3) whom the person represents, if the person is not at  
1-59 the hearing in the person's individual capacity.

1-60 (h) The presiding officer shall prepare and keep a record of  
1-61 each rulemaking hearing in the form of an audio or video recording  
1-62 or a court reporter transcription.

1-63 (i) A person may submit to the district a written request

2-1 for notice of a rulemaking hearing. A request is effective for the  
 2-2 remainder of the calendar year in which the request is received by  
 2-3 the district. To receive notice of a rulemaking hearing in a later  
 2-4 year, a person must submit a new request. An affidavit of an  
 2-5 officer or employee of the district establishing attempted service  
 2-6 by first class mail, facsimile, or e-mail to the person in  
 2-7 accordance with the information provided by the person is proof  
 2-8 that notice was provided by the district.

2-9 (j) A district may use an informal conference or  
 2-10 consultation to obtain the opinions and advice of interested  
 2-11 persons about contemplated rules and may appoint advisory  
 2-12 committees of experts, interested persons, or public  
 2-13 representatives to advise the district about contemplated rules.

2-14 (k) Failure to provide notice under Subsection (d)(4) does  
 2-15 not invalidate an action taken by the district at a rulemaking  
 2-16 hearing.

2-17 (l) Subsections (b)-(k) do not apply to the Edwards Aquifer  
 2-18 Authority.

2-19 SECTION 2. Subchapter D, Chapter 36, Water Code, is amended  
 2-20 by adding Section 36.1011 to read as follows:

2-21 Sec. 36.1011. EMERGENCY RULES. (a) A board may adopt an  
 2-22 emergency rule without prior notice or hearing, or with an  
 2-23 abbreviated notice and hearing, if the board:

2-24 (1) finds that a substantial likelihood of imminent  
 2-25 peril to the public health, safety, or welfare, or a requirement of  
 2-26 state or federal law, requires adoption of a rule on less than 20  
 2-27 days' notice; and

2-28 (2) prepares a written statement of the reasons for  
 2-29 its finding under Subdivision (1).

2-30 (b) Except as provided by Subsection (c), a rule adopted  
 2-31 under this section may not be effective for longer than 90 days.

2-32 (c) If notice of a hearing on the final rule is given not  
 2-33 later than the 90th day after the date the rule is adopted, the rule  
 2-34 is effective for an additional 90 days.

2-35 (d) A rule adopted under this section must be adopted at a  
 2-36 meeting held as provided by Chapter 551, Government Code.

2-37 (e) This section does not apply to the Edwards Aquifer  
 2-38 Authority.

2-39 SECTION 3. Sections 36.113 and 36.114, Water Code, are  
 2-40 amended to read as follows:

2-41 Sec. 36.113. PERMITS FOR WELLS; PERMIT AMENDMENTS.

2-42 (a) Except as provided by Section 36.117, a [A] district shall  
 2-43 require a permit [permits] for the drilling, equipping, operating,  
 2-44 or completing of wells or for substantially altering the size of  
 2-45 wells or well pumps. A district may require that a change in the  
 2-46 withdrawal or use of groundwater during the term of a permit issued  
 2-47 by the district may not be made unless the district has first  
 2-48 approved a permit amendment authorizing the change.

2-49 (a-1) A district may not require a permit or a permit  
 2-50 amendment for maintenance or repair of a well if the maintenance or  
 2-51 repair does not increase the production capabilities of the well to  
 2-52 more than its authorized or permitted production rate.

2-53 (b) A district shall require that an application for a  
 2-54 permit or a permit amendment be in writing and sworn to.

2-55 (c) A district may require that the following be included in  
 2-56 the permit or permit amendment application:

2-57 (1) the name and mailing address of the applicant and  
 2-58 the owner of the land on which the well will be located;

2-59 (2) if the applicant is other than the owner of the  
 2-60 property, documentation establishing the applicable authority to  
 2-61 construct and operate a well for the proposed use;

2-62 (3) a statement of the nature and purpose of the  
 2-63 proposed use and the amount of water to be used for each purpose;

2-64 (4) a water conservation plan or a declaration that  
 2-65 the applicant will comply with the district's management plan;

2-66 (5) the location of each well and the estimated rate at  
 2-67 which water will be withdrawn;

2-68 (6) a water well closure plan or a declaration that the  
 2-69 applicant will comply with well plugging guidelines and report

3-1 closure to the commission; and

3-2 (7) a drought contingency plan.

3-3 (d) Before granting or denying a permit or permit amendment,

3-4 the district shall consider whether:

3-5 (1) the application conforms to the requirements

3-6 prescribed by this chapter and is accompanied by the prescribed

3-7 fees;

3-8 (2) the proposed use of water unreasonably affects

3-9 existing groundwater and surface water resources or existing permit

3-10 holders;

3-11 (3) the proposed use of water is dedicated to any

3-12 beneficial use;

3-13 (4) the proposed use of water is consistent with the

3-14 district's certified water management plan;

3-15 (5) the applicant has agreed to avoid waste and

3-16 achieve water conservation; and

3-17 (6) the applicant has agreed that reasonable diligence

3-18 will be used to protect groundwater quality and that the applicant

3-19 will follow well plugging guidelines at the time of well closure.

3-20 (e) The district may impose more restrictive permit

3-21 conditions on new permit applications and permit amendment

3-22 applications to increase ~~increased~~ use by historic users if the

3-23 limitations:

3-24 (1) apply to all subsequent new permit applications

3-25 and permit amendment applications to increase ~~increased~~ use by

3-26 historic users, regardless of type or location of use;

3-27 (2) bear a reasonable relationship to the existing

3-28 district management plan; and

3-29 (3) are reasonably necessary to protect existing use.

3-30 (f) Permits and permit amendments may be issued subject to

3-31 the rules promulgated by the district and subject to terms and

3-32 provisions with reference to the drilling, equipping, completion,

3-33 ~~or~~ alteration, or operation of, or production of groundwater

3-34 from, ~~of~~ wells or pumps that may be necessary to prevent waste and

3-35 achieve water conservation, minimize as far as practicable the

3-36 drawdown of the water table or the reduction of artesian pressure,

3-37 lessen interference between wells, or control and prevent

3-38 subsidence.

3-39 ~~[(g) A district may require that changes in the withdrawal~~

3-40 ~~and use of groundwater under a permit not be made without the prior~~

3-41 ~~approval of a permit amendment issued by the district.]~~

3-42 Sec. 36.114. PERMIT; PERMIT AMENDMENT; APPLICATION AND

3-43 HEARING. (a) The district by rule shall determine each activity

3-44 regulated by the district for which a permit or permit amendment is

3-45 required.

3-46 (b) For each activity for which the district determines a

3-47 permit or permit amendment is required under Subsection (a), the

3-48 district by rule shall determine whether a hearing on the permit or

3-49 permit amendment application is required.

3-50 (c) For all applications for which a hearing is not required

3-51 under Subsection (b), the board shall act on the application at a

3-52 meeting, as defined by Section 551.001, Government Code, unless the

3-53 board by rule has delegated to the general manager the authority to

3-54 act on the application.

3-55 (d) The district shall promptly consider and act on each

3-56 administratively complete application for a permit or permit

3-57 amendment as provided by Subsection (c) or Subchapter M.

3-58 (e) If, within 60 [30] days after the date an [the]

3-59 administratively complete application is submitted, the [an]

3-60 application has not been acted on or set for a hearing on a specific

3-61 date, the applicant may petition the district court of the county

3-62 where the land is located for a writ of mandamus to compel the

3-63 district to act on the application or set a date for a hearing on the

3-64 application, as appropriate.

3-65 (f) For applications requiring a hearing, the initial [A]

3-66 hearing shall be held within 35 days after the setting of the date,

3-67 and the district shall act on the application within 60 [35] days

3-68 after the date [of] the final hearing on the application is

3-69 concluded.

4-1 (g) The district may by rule set a time when an application  
 4-2 will expire if the information requested in the application is not  
 4-3 provided to the district.

4-4 (h) An administratively complete application requires  
 4-5 information set forth in accordance with Sections 36.113 and  
 4-6 36.1131.

4-7 SECTION 4. Subchapter L, Chapter 36, Water Code, is amended  
 4-8 by adding Section 36.3705 to read as follows:

4-9 Sec. 36.3705. DEFINITION. In this subchapter, "applicant"  
 4-10 means a newly confirmed district applying for a loan from the loan  
 4-11 fund.

4-12 SECTION 5. Chapter 36, Water Code, is amended by adding  
 4-13 Subchapter M to read as follows:

4-14 SUBCHAPTER M. PERMIT AND PERMIT AMENDMENT APPLICATIONS;  
 4-15 NOTICE AND HEARING PROCESS

4-16 Sec. 36.401. DEFINITION. In this subchapter, "applicant"  
 4-17 means a person who is applying for a permit or a permit amendment.

4-18 Sec. 36.402. APPLICABILITY. Except as provided by Section  
 4-19 36.416, this subchapter applies to the notice and hearing process  
 4-20 used by a district for permit and permit amendment applications.

4-21 Sec. 36.403. SCHEDULING OF HEARING. (a) The general  
 4-22 manager or board may schedule a hearing on permit or permit  
 4-23 amendment applications received by the district as necessary, as  
 4-24 provided by Section 36.114.

4-25 (b) The general manager or board may schedule more than one  
 4-26 application for consideration at a hearing.

4-27 (c) A hearing must be held at the district office or regular  
 4-28 meeting location of the board unless the board provides for  
 4-29 hearings to be held at a different location.

4-30 (d) A hearing may be held in conjunction with a regularly  
 4-31 scheduled board meeting.

4-32 Sec. 36.404. NOTICE. (a) If the general manager or board  
 4-33 schedules a hearing on an application for a permit or permit  
 4-34 amendment, the general manager or board shall give notice of the  
 4-35 hearing as provided by this section.

4-36 (b) The notice must include:

4-37 (1) the name of the applicant;  
 4-38 (2) the address or approximate location of the well or  
 4-39 proposed well;

4-40 (3) a brief explanation of the proposed permit or  
 4-41 permit amendment, including any requested amount of groundwater,  
 4-42 the purpose of the proposed use, and any change in use;

4-43 (4) the time, date, and location of the hearing; and

4-44 (5) any other information the general manager or board  
 4-45 considers relevant and appropriate.

4-46 (c) Not later than the 10th day before the date of a hearing,  
 4-47 the general manager or board shall:

4-48 (1) post notice in a place readily accessible to the  
 4-49 public at the district office;

4-50 (2) provide notice to the county clerk of each county  
 4-51 in the district; and

4-52 (3) provide notice by:

4-53 (A) regular mail to the applicant;  
 4-54 (B) regular mail, facsimile, or electronic mail  
 4-55 to any person who has requested notice under Subsection (d); and

4-56 (C) regular mail to any other person entitled to  
 4-57 receive notice under the rules of the district.

4-58 (d) A person may request notice from the district of a  
 4-59 hearing on a permit or a permit amendment application. The request  
 4-60 must be in writing and is effective for the remainder of the  
 4-61 calendar year in which the request is received by the district. To  
 4-62 receive notice of a hearing in a later year, a person must submit a  
 4-63 new request. An affidavit of an officer or employee of the district  
 4-64 establishing attempted service by first class mail, facsimile, or  
 4-65 e-mail to the person in accordance with the information provided by  
 4-66 the person is proof that notice was provided by the district.

4-67 (e) Failure to provide notice under Subsection (c)(3)(B)  
 4-68 does not invalidate an action taken by the district at the hearing.

4-69 Sec. 36.405. HEARING REGISTRATION. The district may

5-1 require each person who participates in a hearing to submit a  
 5-2 hearing registration form stating:

- 5-3 (1) the person's name;  
 5-4 (2) the person's address; and  
 5-5 (3) whom the person represents, if the person is not  
 5-6 there in the person's individual capacity.

5-7 Sec. 36.406. HEARING PROCEDURES. (a) A hearing must be  
 5-8 conducted by:

- 5-9 (1) a quorum of the board; or  
 5-10 (2) an individual to whom the board has delegated in  
 5-11 writing the responsibility to preside as a hearings examiner over  
 5-12 the hearing or matters related to the hearing.

5-13 (b) Except as provided by Subsection (c), the board  
 5-14 president or the hearings examiner shall serve as the presiding  
 5-15 officer at the hearing.

5-16 (c) If the hearing is conducted by a quorum of the board and  
 5-17 the board president is not present, the directors conducting the  
 5-18 hearing may select a director to serve as the presiding officer.

5-19 (d) The presiding officer may:  
 5-20 (1) convene the hearing at the time and place  
 5-21 specified in the notice;

5-22 (2) set any necessary additional hearing dates;  
 5-23 (3) designate the parties regarding a contested  
 5-24 application;

5-25 (4) establish the order for presentation of evidence;  
 5-26 (5) administer oaths to all persons presenting  
 5-27 testimony;

5-28 (6) examine persons presenting testimony;  
 5-29 (7) ensure that information and testimony are  
 5-30 introduced as conveniently and expeditiously as possible without  
 5-31 prejudicing the rights of any party;

5-32 (8) prescribe reasonable time limits for testimony and  
 5-33 the presentation of evidence; and

5-34 (9) exercise the procedural rules adopted under  
 5-35 Section 36.415.

5-36 (e) Except as provided by a rule adopted under Section  
 5-37 36.415, a district may allow any person, including the general  
 5-38 manager or a district employee, to provide comments at a hearing on  
 5-39 an uncontested application.

5-40 (f) The presiding officer may allow testimony to be  
 5-41 submitted in writing and may require that written testimony be  
 5-42 sworn to. On the motion of a party to the hearing, the presiding  
 5-43 officer may exclude written testimony if the person who submits the  
 5-44 testimony is not available for cross-examination by phone, a  
 5-45 deposition before the hearing, or other reasonable means.

5-46 (g) If the board has not acted on the application, the  
 5-47 presiding officer may allow a person who testifies at the hearing to  
 5-48 supplement the testimony given at the hearing by filing additional  
 5-49 written materials with the presiding officer not later than the  
 5-50 10th day after the date of the hearing. A person who files  
 5-51 additional written material with the presiding officer under this  
 5-52 subsection must also provide the material, not later than the 10th  
 5-53 day after the date of the hearing, to any person who provided  
 5-54 comments on an uncontested application or any party to a contested  
 5-55 hearing. A person who receives additional written material under  
 5-56 this subsection may file a response to the material with the  
 5-57 presiding officer not later than the 10th day after the date the  
 5-58 material was received.

5-59 (h) The district by rule adopted under Section 36.417 may  
 5-60 authorize the presiding officer, at the presiding officer's  
 5-61 discretion, to issue an order at any time before board action under  
 5-62 Section 36.411 that:

5-63 (1) refers parties to a contested hearing to an  
 5-64 alternative dispute resolution procedure on any matter at issue in  
 5-65 the hearing;

5-66 (2) determines how the costs of the procedure shall be  
 5-67 apportioned among the parties; and

5-68 (3) appoints an impartial third party as provided by  
 5-69 Section 2009.053, Government Code, to facilitate that procedure.

6-1 Sec. 36.407. EVIDENCE. (a) The presiding officer shall  
 6-2 admit evidence that is relevant to an issue at the hearing.

6-3 (b) The presiding officer may exclude evidence that is  
 6-4 irrelevant, immaterial, or unduly repetitious.

6-5 Sec. 36.408. RECORDING. (a) Except as provided by  
 6-6 Subsection (b), the presiding officer shall prepare and keep a  
 6-7 record of each hearing in the form of an audio or video recording or  
 6-8 a court reporter transcription. On the request of a party to a  
 6-9 contested hearing, the presiding officer shall have the hearing  
 6-10 transcribed by a court reporter. The presiding officer may assess  
 6-11 any court reporter transcription costs against the party that  
 6-12 requested the transcription or among the parties to the hearing.  
 6-13 Except as provided by this subsection, the presiding officer may  
 6-14 exclude a party from further participation in a hearing for failure  
 6-15 to pay in a timely manner costs assessed against that party under  
 6-16 this subsection. The presiding officer may not exclude a party from  
 6-17 further participation in a hearing as provided by this subsection  
 6-18 if the parties have agreed that the costs assessed against that  
 6-19 party will be paid by another party.

6-20 (b) If a hearing is uncontested, the presiding officer may  
 6-21 substitute minutes or the report required under Section 36.410 for  
 6-22 a method of recording the hearing provided by Subsection (a).

6-23 Sec. 36.409. CONTINUANCE. The presiding officer may  
 6-24 continue a hearing from time to time and from place to place without  
 6-25 providing notice under Section 36.404. If the presiding officer  
 6-26 continues a hearing without announcing at the hearing the time,  
 6-27 date, and location of the continued hearing, the presiding officer  
 6-28 must provide notice of the continued hearing by regular mail to the  
 6-29 parties.

6-30 Sec. 36.410. REPORT. (a) Except as provided by Subsection  
 6-31 (e), the presiding officer shall submit a report to the board not  
 6-32 later than the 30th day after the date a hearing is concluded.

6-33 (b) The report must include:  
 6-34 (1) a summary of the subject matter of the hearing;  
 6-35 (2) a summary of the evidence or public comments  
 6-36 received; and

6-37 (3) the presiding officer's recommendations for board  
 6-38 action on the subject matter of the hearing.

6-39 (c) The presiding officer or general manager shall provide a  
 6-40 copy of the report to:

6-41 (1) the applicant; and  
 6-42 (2) each person who provided comments or each  
 6-43 designated party.

6-44 (d) A person who receives a copy of the report under  
 6-45 Subsection (c) may submit to the board written exceptions to the  
 6-46 report.

6-47 (e) If the hearing was conducted by a quorum of the board and  
 6-48 if the presiding officer prepared a record of the hearing as  
 6-49 provided by Section 36.408(a), the presiding officer shall  
 6-50 determine whether to prepare and submit a report to the board under  
 6-51 this section.

6-52 Sec. 36.411. BOARD ACTION. The board shall act on a permit  
 6-53 or permit amendment application not later than the 60th day after  
 6-54 the date the final hearing on the application is concluded.

6-55 Sec. 36.412. REQUEST FOR REHEARING OR FINDINGS AND  
 6-56 CONCLUSIONS. (a) An applicant in a contested or uncontested  
 6-57 hearing on an application or a party to a contested hearing may  
 6-58 administratively appeal a decision of the board on a permit or  
 6-59 permit amendment application by requesting written findings and  
 6-60 conclusions or a rehearing before the board not later than the 20th  
 6-61 day after the date of the board's decision.

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

7-1 rehearing before the board not later than the 20th day after the  
 7-2 date the board issues the findings and conclusions.

7-3 (c) A request for rehearing must be filed in the district  
 7-4 office and must state the grounds for the request. If the original  
 7-5 hearing was a contested hearing, the person requesting a rehearing  
 7-6 must provide copies of the request to all parties to the hearing.

7-7 (d) If the board grants a request for rehearing, the board  
 7-8 shall schedule the rehearing not later than the 45th day after the  
 7-9 date the request is granted.

7-10 (e) The failure of the board to grant or deny a request for  
 7-11 rehearing before the 91st day after the date the request is  
 7-12 submitted is a denial of the request.

7-13 Sec. 36.413. DECISION; WHEN FINAL. (a) A decision by the  
 7-14 board on a permit or permit amendment application is final:

7-15 (1) if a request for rehearing is not filed on time, on  
 7-16 the expiration of the period for filing a request for rehearing; or

7-17 (2) if a request for rehearing is filed on time, on the  
 7-18 date:

7-19 (A) the board denies the request for rehearing;  
 7-20 or

7-21 (B) the board renders a written decision after  
 7-22 rehearing.

7-23 (b) Except as provided by Subsection (c), an applicant or a  
 7-24 party to a contested hearing may file a suit against the district  
 7-25 under Section 36.251 to appeal a decision on a permit or permit  
 7-26 amendment application not later than the 60th day after the date on  
 7-27 which the decision becomes final.

7-28 (c) An applicant or a party to a contested hearing may not  
 7-29 file suit against the district under Section 36.251 if a request for  
 7-30 rehearing was not filed on time.

7-31 Sec. 36.414. CONSOLIDATED HEARING ON APPLICATIONS.

7-32 (a) Except as provided by Subsection (b), a district shall process  
 7-33 applications from a single applicant under consolidated notice and  
 7-34 hearing procedures on written request by the applicant if the  
 7-35 district requires a separate permit or permit amendment application  
 7-36 for:

7-37 (1) drilling, equipping, operating, or completing a  
 7-38 well or substantially altering the size of a well or well pump under  
 7-39 Section 36.113;

7-40 (2) the spacing of water wells or the production of  
 7-41 groundwater under Section 36.116; or

7-42 (3) transferring groundwater out of a district under  
 7-43 Section 36.122.

7-44 (b) A district is not required to use consolidated notice  
 7-45 and hearing procedures to process separate permit or permit  
 7-46 amendment applications from a single applicant if the board cannot  
 7-47 adequately evaluate one application until it has acted on another  
 7-48 application.

7-49 Sec. 36.415. RULES; ADDITIONAL PROCEDURES. (a) A district  
 7-50 by rule shall adopt procedural rules to implement this subchapter  
 7-51 and may adopt notice and hearing procedures in addition to those  
 7-52 provided by this subchapter.

7-53 (b) In adopting the rules, a district shall:

7-54 (1) define under what circumstances an application is  
 7-55 considered contested; and

7-56 (2) limit participation in a hearing on a contested  
 7-57 application to persons who have a personal justiciable interest  
 7-58 related to a legal right, duty, privilege, power, or economic  
 7-59 interest that is within a district's regulatory authority and  
 7-60 affected by a permit or permit amendment application, not including  
 7-61 persons who have an interest common to members of the public.

7-62 Sec. 36.416. HEARINGS CONDUCTED BY STATE OFFICE OF  
 7-63 ADMINISTRATIVE HEARINGS. If a district contracts with the State  
 7-64 Office of Administrative Hearings to conduct a hearing, the hearing  
 7-65 shall be conducted as provided by Subchapters C, D, and F, Chapter  
 7-66 2001, Government Code.

7-67 Sec. 36.417. RULES; ALTERNATIVE DISPUTE RESOLUTION. A  
 7-68 district by rule may develop and use alternative dispute resolution  
 7-69 procedures in the manner provided for governmental bodies under

8-1 Chapter 2009, Government Code.

8-2 Sec. 36.418. APPLICABILITY OF ADMINISTRATIVE PROCEDURE  
8-3 ACT. (a) A district may adopt rules establishing procedures for  
8-4 contested hearings consistent with Subchapters C, D, and F, Chapter  
8-5 2001, Government Code, including the authority to issue a subpoena,  
8-6 require a deposition, or order other discovery.

8-7 (b) Except as provided by this section and Section 36.416,  
8-8 Chapter 2001, Government Code, does not apply to a hearing under  
8-9 this subchapter.

8-10 Sec. 36.419. EDWARDS AQUIFER AUTHORITY. (a) Except as  
8-11 provided by Subsection (b), this subchapter does not apply to the  
8-12 Edwards Aquifer Authority.

8-13 (b) Sections 36.412 and 36.413 apply to the Edwards Aquifer  
8-14 Authority.

8-15 SECTION 6. Subdivision (17), Section 36.001, Water Code, is  
8-16 repealed.

8-17 SECTION 7. The change in law made by this Act applies only  
8-18 to a permit or permit amendment application determined to be  
8-19 administratively complete or a rulemaking hearing for which notice  
8-20 is given by a groundwater conservation district on or after the  
8-21 effective date of this Act. A permit or permit amendment  
8-22 application determined to be administratively complete or a  
8-23 rulemaking hearing for which notice was given by a groundwater  
8-24 conservation district before the effective date of this Act is  
8-25 governed by the law in effect at the time the application was  
8-26 determined to be administratively complete or the notice was given,  
8-27 and the former law is continued in effect for that purpose.

8-28 SECTION 8. This Act takes effect September 1, 2005.

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