

SENATE AMENDMENTS

2nd Printing

By: Callegari, Creighton

H.B. No. 2063

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the enforcement of rules by a groundwater conservation
3 district.

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

5 SECTION 1. Section 36.102, Water Code, is amended to read as
6 follows:

7 Sec. 36.102. ENFORCEMENT OF RULES. (a) A district may
8 enforce this chapter and its rules against any person by
9 injunction, mandatory injunction, or other appropriate remedy in a
10 court of competent jurisdiction.

11 (b) The board by rule may set reasonable civil penalties
12 against any person for breach of any rule of the district not to
13 exceed \$10,000 per day per violation, and each day of a continuing
14 violation constitutes a separate violation.

15 (c) A penalty under this section is in addition to any other
16 penalty provided by the law of this state and may be enforced
17 against any person by complaints filed in the appropriate court of
18 jurisdiction in the county in which the district's principal office
19 or meeting place is located.

20 (d) If the district prevails in any suit to enforce its
21 rules, the district may seek and the court shall grant against any
22 person, in the same action, recovery for attorney's fees, costs for
23 expert witnesses, and other costs incurred by the district before
24 the court. The amount of the attorney's fees shall be fixed by the

1 court.

2 SECTION 2. The change in law made by this Act to Section
3 36.102, Water Code, does not affect an action, lawsuit, or appeal
4 filed before the effective date of this Act. Section 36.102, Water
5 Code, as amended by this Act, applies only to an action, lawsuit, or
6 appeal filed on or after the effective date of this Act. An action
7 filed before the effective date of this Act is covered by the law in
8 effect when the action was filed, and the former law is continued in
9 effect for that purpose.

10 SECTION 3. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2009.

ADOPTED

MAY 18 2009

Leroy Spaw
Secretary of the Senate

By: Callegari

Substitute the following for ___B. No. _____:

By: De

C.S.#.B. No. 2063

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17 against any person by complaints filed in the appropriate court of
18 jurisdiction in the county in which the district's principal office
19 or meeting place is located.

20 (d) If the district prevails in any suit to enforce its
21 rules, the district may seek and the court shall grant against any
22 person, in the same action, recovery for attorney's fees, costs for
23 expert witnesses, and other costs incurred by the district before
24 the court. The amount of the attorney's fees shall be fixed by the

1 court.

2 (e) In an enforcement action by a district against any
3 person that is a governmental entity for a violation of district
4 rules, the limits on the amount of fees, costs, and penalties that a
5 district may impose under Section 36.122, 36.205, or this section,
6 or under a special law governing a district operating under this
7 chapter, constitute a limit of liability of the governmental entity
8 for the violation. This subsection shall not be construed to
9 prohibit the recovery by a district of fees and costs under
10 Subsection (d) in an action against any person that is a
11 governmental entity.

12 SECTION 2. Section 311.031(a), Government Code, applies to
13 the amendments by this Act to Section 36.102, Water Code.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2009.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 19, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2063 by Callegari (Relating to the enforcement of rules by a groundwater conservation district.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 36.102 of the Water Code to specify that in an enforcement action taken by a groundwater conservation district against any person that is a governmental entity for a violation of district rules, the limits on the amount of fees, costs, and penalties that a district may impose under certain statutes would constitute a limit on the governmental entity's liability for the violation.

The Savings Provisions in Section 311.031(a), Government Code, would apply to the proposed changes to Section 36.102, Water Code.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

A state or local governmental entity that violates district rules would be protected from excessive revenue losses as a result of the proposed change in statute. For the purposes of this analysis, it is assumed that a state or local governmental entity would not violate the rules of a groundwater conservation district; however, if a violation were to occur, it is assumed there would not be numerous violations and that the fees, costs, and penalties could be absorbed within existing resources. Absent the proposed limits, a governmental entity could otherwise incur higher costs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, SZ, SD, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 12, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2063 by Callegari (Relating to the enforcement of rules by a groundwater conservation district.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 36.102 of the Water Code to specify that in an enforcement action taken by a groundwater conservation district against any person that is a governmental entity for a violation of district rules, the limits on the amount of fees, costs, and penalties that a district may impose under certain statutes would constitute a limit on the governmental entity's liability for the violation.

The Savings Provisions in Section 311.031(a), Government Code, would apply to the proposed changes to Section 36.102, Water Code.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

A state or local governmental entity that violates district rules would be protected from excessive revenue losses as a result of the proposed change in statute. For the purposes of this analysis, it is assumed that a state or local governmental entity would not violate the rules of a groundwater conservation district; however, if a violation were to occur, it is assumed there would not be numerous violations and that the fees, costs, and penalties could be absorbed within existing resources. Absent the proposed limits, a governmental entity could otherwise incur higher costs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, SZ, SD, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 8, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2063 by Callegari (Relating to the enforcement of rules by a groundwater conservation district.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, SD, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 19, 2009

TO: Honorable Allan Ritter, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2063** by Callegari (Relating to the enforcement of rules by a groundwater conservation district.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, WK, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

WATER DEVELOPMENT POLICY IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 21, 2009

TO: Honorable Allan Ritter, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2063 by Callegari (Relating to the enforcement of rules by a groundwater conservation district.), **As Introduced**

The Legislative Budget Board, in cooperation with the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ) has determined that:

No Water Development Policy Impact Statement will be prepared for this bill under the provisions of *Texas Constitution*, Article 16, Section 59(d), as this bill does not create a conservation and reclamation district.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, WK

