

By: Estes

S.B. No. 693

A BILL TO BE ENTITLED

AN ACT

1
2 relating to permit application and amendment hearings conducted by
3 groundwater conservation districts and the State Office of
4 Administrative Hearings.

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

6 SECTION 1. Subsections (a) and (b), Section 36.406, Water
7 Code, are amended to read as follows:

8 (a) A hearing must be conducted by:

9 (1) a quorum of the board; ~~[or]~~

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

13 (3) the State Office of Administrative Hearings under
14 Section 36.416.

15 (b) Except as provided by Subsection (c) or Section 36.416,
16 the board president or the hearings examiner shall serve as the
17 presiding officer at the hearing.

18 SECTION 2. Section 36.416, Water Code, is amended to read as
19 follows:

20 Sec. 36.416. HEARINGS CONDUCTED BY STATE OFFICE OF
21 ADMINISTRATIVE HEARINGS; RULES. (a) If a district contracts with
22 the State Office of Administrative Hearings to conduct a hearing,
23 the hearing shall be conducted as provided by Subchapters C, D, and
24 F, Chapter 2001, Government Code. The district may adopt rules for

1 a hearing conducted under this section that are consistent with the
2 procedural rules of the State Office of Administrative Hearings.

3 (b) If requested by the applicant or other party to a
4 contested case, a district shall contract with the State Office of
5 Administrative Hearings to conduct the hearing. If the district
6 does not prescribe a deadline by rule, the applicant or other party
7 must request the hearing before the State Office of Administrative
8 Hearings not later than the 14th day before the date the evidentiary
9 hearing is scheduled to begin. The hearing must be held in Travis
10 County or at a location described by Section 36.403(c). The
11 district shall choose the location.

12 (c) The party requesting the hearing before the State Office
13 of Administrative Hearings shall pay all costs associated with the
14 contract for the hearing and shall deposit with the district an
15 amount sufficient to pay the contract amount before the hearing
16 begins. At the conclusion of the hearing, the district shall refund
17 any excess money to the paying party. All other costs may be
18 assessed as authorized by this chapter or district rules.

19 SECTION 3. Subchapter M, Chapter 36, Water Code, is amended
20 by adding Section 36.4165 to read as follows:

21 Sec. 36.4165. FINAL DECISION; CONTESTED CASE HEARINGS. In
22 a proceeding for a permit application or amendment in which a
23 district has contracted with the State Office of Administrative
24 Hearings for a contested case hearing, the board has the authority
25 to make a final decision on consideration of a proposal for decision
26 issued by an administrative law judge consistent with Section
27 2001.058, Government Code.

1 SECTION 4. The heading to Section 36.418, Water Code, is
2 amended to read as follows:

3 Sec. 36.418. RULES; CONTESTED CASE HEARINGS; APPLICABILITY
4 OF ADMINISTRATIVE PROCEDURE ACT.

5 SECTION 5. Section 36.418, Water Code, is amended by
6 amending Subsection (b) and adding Subsection (c) to read as
7 follows:

8 (b) Except as provided by this section and Sections
9 [~~Section~~] 36.416 and 36.4165, Chapter 2001, Government Code, does
10 not apply to a hearing under this subchapter.

11 (c) The district shall adopt rules to:

12 (1) establish a procedure for preliminary and
13 evidentiary hearings;

14 (2) allow the presiding officer, at a preliminary
15 hearing by the district and before a referral of the case to the
16 State Office of Administrative Hearings, to determine a party's
17 right to participate in a hearing according to Section
18 36.415(b)(2); and

19 (3) set a deadline for a party to file a request to
20 refer a contested case to the State Office of Administrative
21 Hearings under Section 36.416.

22 SECTION 6. The change in law made by this Act applies only
23 to a permit or permit amendment application determined to be
24 administratively complete on or after the effective date of this
25 Act. A permit or permit amendment application determined to be
26 administratively complete before the effective date of this Act is
27 governed by the law in effect at the time the application was

1 determined to be administratively complete, and the former law is
2 continued in effect for that purpose.

3 SECTION 7. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2011.