

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. Sections 36.406(a) and (b), Water Code, are  
7 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 shall adopt rules

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

4 (b) If requested by the applicant or other party to a  
5 contested case, a district shall contract with the State Office of  
6 Administrative Hearings to conduct the hearing. If the district  
7 does not prescribe a contract deadline by rule, the district shall  
8 contract with the office not later than the 14th day before the date  
9 the hearing is scheduled to begin. The hearing must be held in  
10 Travis 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 shall pay all costs  
13 associated with the contract for the hearing and shall deposit with  
14 the district an amount sufficient to pay the contract amount before  
15 the hearing begins. At the conclusion of the hearing, the district  
16 shall refund any excess money to the paying party. All other costs  
17 may be assessed as authorized by this chapter or district rules.

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

20 Sec. 36.4165. FINAL DECISION; CONTESTED CASE HEARINGS.  
21 Consistent with Section 2001.058, Government Code, the board has  
22 the authority to make a final decision on a permit application or  
23 amendment after a contested case hearing on consideration of a  
24 proposal for decision issued by an administrative law judge.

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

27 Sec. 36.418. RULES; CONTESTED CASE HEARINGS; APPLICABILITY

1 OF ADMINISTRATIVE PROCEDURE ACT.

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

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

8 (c) The district shall adopt rules to:

9 (1) establish a procedure for a preliminary or other  
10 type of hearing;

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

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

19 SECTION 6. The change in law made by this Act applies only  
20 to a permit or permit amendment application determined to be  
21 administratively complete on or after the effective date of this  
22 Act. A permit or permit amendment application determined to be  
23 administratively complete before the effective date of this Act is  
24 governed by the law in effect at the time the application was  
25 determined to be administratively complete, and the former law is  
26 continued in effect for that purpose.

27 SECTION 7. This Act takes effect immediately if it receives

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