

1-1 By: Estes S.B. No. 693
1-2 (In the Senate - Filed February 14, 2011; February 23, 2011,
1-3 read first time and referred to Committee on Natural Resources;
1-4 March 31, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; March 31, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 693 By: Estes

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

1-10 relating to permit application and amendment hearings conducted by
1-11 groundwater conservation districts and the State Office of
1-12 Administrative Hearings.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsections (a) and (b), Section 36.406, Water
1-15 Code, are amended to read as follows:

1-16 (a) A hearing must be conducted by:

1-17 (1) a quorum of the board; [~~or~~]

1-18 (2) an individual to whom the board has delegated in
1-19 writing the responsibility to preside as a hearings examiner over
1-20 the hearing or matters related to the hearing; or

1-21 (3) the State Office of Administrative Hearings under
1-22 Section 36.416.

1-23 (b) Except as provided by Subsection (c) or Section 36.416,
1-24 the board president or the hearings examiner shall serve as the
1-25 presiding officer at the hearing.

1-26 SECTION 2. Section 36.416, Water Code, is amended to read as
1-27 follows:

1-28 Sec. 36.416. HEARINGS CONDUCTED BY STATE OFFICE OF
1-29 ADMINISTRATIVE HEARINGS; RULES. (a) If a district contracts with
1-30 the State Office of Administrative Hearings to conduct a hearing,
1-31 the hearing shall be conducted as provided by Subchapters C, D, and
1-32 F, Chapter 2001, Government Code. The district may adopt rules for
1-33 a hearing conducted under this section that are consistent with the
1-34 procedural rules of the State Office of Administrative Hearings.

1-35 (b) If requested by the applicant or other party to a
1-36 contested case, a district shall contract with the State Office of
1-37 Administrative Hearings to conduct the hearing. If the district
1-38 does not prescribe a deadline by rule, the applicant or other party
1-39 must request the hearing before the State Office of Administrative
1-40 Hearings not later than the 14th day before the date the evidentiary
1-41 hearing is scheduled to begin. The hearing must be held in Travis
1-42 County or at a location described by Section 36.403(c). The
1-43 district shall choose the location.

1-44 (c) The party requesting the hearing before the State Office
1-45 of Administrative Hearings shall pay all costs associated with the
1-46 contract for the hearing and shall deposit with the district an
1-47 amount sufficient to pay the contract amount before the hearing
1-48 begins. At the conclusion of the hearing, the district shall refund
1-49 any excess money to the paying party. All other costs may be
1-50 assessed as authorized by this chapter or district rules.

1-51 SECTION 3. Subchapter M, Chapter 36, Water Code, is amended
1-52 by adding Section 36.4165 to read as follows:

1-53 Sec. 36.4165. FINAL DECISION; CONTESTED CASE HEARINGS. In
1-54 a proceeding for a permit application or amendment in which a
1-55 district has contracted with the State Office of Administrative
1-56 Hearings for a contested case hearing, the board has the authority
1-57 to make a final decision on consideration of a proposal for decision
1-58 issued by an administrative law judge consistent with Section
1-59 2001.058, Government Code.

1-60 SECTION 4. The heading to Section 36.418, Water Code, is
1-61 amended to read as follows:

1-62 Sec. 36.418. RULES; CONTESTED CASE HEARINGS; APPLICABILITY
1-63 OF ADMINISTRATIVE PROCEDURE ACT.

2-1 SECTION 5. Section 36.418, Water Code, is amended by
2-2 amending Subsection (b) and adding Subsection (c) to read as
2-3 follows:

2-4 (b) Except as provided by this section and Sections
2-5 [~~Section~~] 36.416 and 36.4165, Chapter 2001, Government Code, does
2-6 not apply to a hearing under this subchapter.

2-7 (c) The district shall adopt rules to:

2-8 (1) establish a procedure for preliminary and
2-9 evidentiary hearings;

2-10 (2) allow the presiding officer, at a preliminary
2-11 hearing by the district and before a referral of the case to the
2-12 State Office of Administrative Hearings, to determine a party's
2-13 right to participate in a hearing according to Section
2-14 36.415(b)(2); and

2-15 (3) set a deadline for a party to file a request to
2-16 refer a contested case to the State Office of Administrative
2-17 Hearings under Section 36.416.

2-18 SECTION 6. The change in law made by this Act applies only
2-19 to a permit or permit amendment application determined to be
2-20 administratively complete on or after the effective date of this
2-21 Act. A permit or permit amendment application determined to be
2-22 administratively complete before the effective date of this Act is
2-23 governed by the law in effect at the time the application was
2-24 determined to be administratively complete, and the former law is
2-25 continued in effect for that purpose.

2-26 SECTION 7. This Act takes effect immediately if it receives
2-27 a vote of two-thirds of all the members elected to each house, as
2-28 provided by Section 39, Article III, Texas Constitution. If this
2-29 Act does not receive the vote necessary for immediate effect, this
2-30 Act takes effect September 1, 2011.

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