

By: Isaac

H.B. No. 1796

Substitute the following for H.B. No. 1796:

By: Martinez Fischer

C.S.H.B. No. 1796

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the renewal or amendment of permits issued by
3 groundwater conservation districts.

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

5 SECTION 1. Sections 36.113(d) and (f), Water Code, are
6 amended to read as follows:

7 (d) Except as provided by Sections 36.1145 and 36.1146,
8 before [~~Before~~] granting or denying a permit or permit amendment,
9 the district shall consider whether:

10 (1) the application conforms to the requirements
11 prescribed by this chapter and is accompanied by the prescribed
12 fees;

13 (2) the proposed use of water unreasonably affects
14 existing groundwater and surface water resources or existing permit
15 holders;

16 (3) the proposed use of water is dedicated to any
17 beneficial use;

18 (4) the proposed use of water is consistent with the
19 district's approved management plan;

20 (5) if the well will be located in the Hill Country
21 Priority Groundwater Management Area, the proposed use of water
22 from the well is wholly or partly to provide water to a pond, lake,
23 or reservoir to enhance the appearance of the landscape;

24 (6) the applicant has agreed to avoid waste and

1 achieve water conservation; and

2 (7) the applicant has agreed that reasonable diligence
3 will be used to protect groundwater quality and that the applicant
4 will follow well plugging guidelines at the time of well closure.

5 (f) Except as provided by Sections 36.1145 and 36.1146,
6 permits [~~Permits~~] and permit amendments may be issued subject to
7 the rules promulgated by the district and subject to terms and
8 provisions with reference to the drilling, equipping, completion,
9 alteration, or operation of, or production of groundwater from,
10 wells or pumps that may be necessary to prevent waste and achieve
11 water conservation, minimize as far as practicable the drawdown of
12 the water table or the reduction of artesian pressure, lessen
13 interference between wells, or control and prevent subsidence.

14 SECTION 2. Sections 36.114(b) and (c), Water Code, are
15 amended to read as follows:

16 (b) For each activity for which the district determines a
17 permit or permit amendment is required under Subsection (a), and
18 that is not exempt from a hearing requirement under Section
19 36.1145, the district by rule shall determine whether a hearing on
20 the permit or permit amendment application is required.

21 (c) For all applications for which a hearing is not required
22 under Subsection (b) or Section 36.1145, the board shall act on the
23 application at a meeting, as defined by Section 551.001, Government
24 Code, unless the board by rule has delegated to the general manager
25 the authority to act on the application.

26 SECTION 3. Subchapter D, Chapter 36, Water Code, is amended
27 by adding Sections 36.1145 and 36.1146 to read as follows:

1 Sec. 36.1145. PERMIT RENEWAL. (a) Except as provided by
2 Subsection (b), a district shall approve an application to renew an
3 operating permit without a hearing before the date on which the
4 permit expires, provided that:

5 (1) the application is submitted in a timely manner in
6 accordance with district rules;

7 (2) the application to renew the permit is for the same
8 point of groundwater withdrawal, place of using the water, and
9 purpose of using the water; and

10 (3) the amount and rate of groundwater withdrawals
11 under the application are not more than the amount and rate allowed
12 by the permit the applicant seeks to renew.

13 (b) A district is not required to renew a permit under this
14 section if the applicant:

15 (1) is delinquent in paying a fee required by the
16 district;

17 (2) has committed a violation of the permit or a
18 district rule that has not been settled by agreement with the
19 district or a final adjudication; or

20 (3) has not paid a civil penalty resulting from a final
21 adjudication of a violation of a permit or rule.

22 Sec. 36.1146. PERMIT AMENDMENT REQUIRED BY CHANGE IN
23 CONDITIONS. (a) In this section, "hydrogeologic unit" means an
24 aquifer, aquifer subdivision, or management zone, that is defined
25 in the district's management plan or rules or in an order issued by
26 the district board under the district's rules.

27 (b) After notice and hearing conducted under Subchapter M, a

1 district may amend an operating permit to adjust the rate or amount
2 of permitted groundwater withdrawals only to the extent necessary
3 to:

4 (1) respond to:

5 (A) a significant change in the condition of a
6 hydrogeologic unit from which the permit authorizes withdrawals;

7 (B) a significant change in groundwater
8 availability in a hydrogeologic unit from which the permit
9 authorizes withdrawals, arising from a change in the district's
10 management plan approved by the Texas Water Development Board and
11 designed to meet a desired future condition;

12 (C) increased demand on a hydrogeologic unit that
13 impacts the district's ability to meet a desired future condition
14 established under Section 36.108 in all or part of the
15 hydrogeologic unit; or

16 (D) subsidence conditions that can be mitigated
17 by adjusting permitted withdrawals; or

18 (2) comply with an order of the commission.

19 (c) Except as provided by Subsection (d), if a district
20 amends an operating permit under this section, the district must
21 similarly amend all operating permits affected by the applicable
22 condition, regardless of the place or purpose of using the water.

23 (d) A district may, in a manner consistent with the
24 district's management plan, distinguish between:

25 (1) operating permits based on historic use and
26 permits not based on historic use;

27 (2) classes or categories of operating permits as

1 specified in a district's rules and management plan approved by the
2 Texas Water Development Board; or

3 (3) operating permits for which site-specific,
4 science-based hydrogeologic information justifies the distinction.

5 (e) Before a district amends a permit under this section,
6 the district must demonstrate that a condition described by
7 Subsection (b) exists that justifies the amendment.

8 (f) This section does not prohibit a district from:

9 (1) increasing or decreasing the amount of groundwater
10 that may be produced under a permit based on a condition existing in
11 the permit;

12 (2) suspending or revoking a permit for a violation of
13 a district rule or the terms of the permit; or

14 (3) temporarily adjusting the amount or rate of
15 withdrawals under an operating permit during drought conditions
16 under the district's management plan and rules.

17 SECTION 4. Section 36.122(a), Water Code, is amended to
18 read as follows:

19 (a) The [~~If an application for a permit or an amendment to a~~
20 ~~permit under Section 36.113 proposes the transfer of groundwater~~
21 ~~outside of a district's boundaries, the~~] district may also consider
22 the provisions of this section in determining whether to grant or
23 deny an application for a [~~the~~] permit or permit amendment under
24 Section 36.113, if:

25 (1) the application for a permit or an amendment to a
26 permit under Section 36.113 proposes the transfer of groundwater
27 outside of the district's boundaries; or

1 (2) the application does not meet the requirements for
2 approval without a hearing under Section 36.1145.

3 SECTION 5. Section 36.402, Water Code, is amended to read as
4 follows:

5 Sec. 36.402. APPLICABILITY. Except as provided by Section
6 36.416, this subchapter applies to the notice and hearing process
7 used by a district for permit and permit amendment applications for
8 which a hearing is required.

9 SECTION 6. As soon as practicable after the effective date
10 of this Act, groundwater conservation districts shall adopt rules
11 to implement the changes in law made by this Act.

12 SECTION 7. Section 36.1145, Water Code, as added by this
13 Act, applies only to an application for a permit renewal submitted
14 to a groundwater conservation district on or after the effective
15 date of this Act. An application for a permit renewal submitted to
16 a groundwater conservation district before that date is governed by
17 the law in effect on the date the application was submitted, and the
18 former law is continued in effect for that purpose.

19 SECTION 8. To the extent of any conflict with other
20 provisions of Chapter 36, Water Code, Sections 36.113(d) and (f),
21 36.114(b) and (c), 36.122(a), and 36.402, Water Code, as amended by
22 this Act, and Sections 36.1145 and 36.1146, Water Code, as added by
23 this Act, prevail.

24 SECTION 9. This Act takes effect September 1, 2013.