

By: Isaac

H.B. No. 1796

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the renewal or amendment of permits issued by  
3 groundwater conservation districts; providing authority to impose  
4 fees.

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

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

8 (d) Except as provided by Sections 36.1145, 36.1146, and  
9 36.1147, before [~~Before~~] granting or denying a permit or permit  
10 amendment, the district shall consider whether:

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

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

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

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

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

1           (6) the applicant has agreed to avoid waste and  
2 achieve water conservation; and

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

6           (f) Except as provided by Sections 36.1145, 36.1146, and  
7 36.1147, permits [~~Permits~~] and permit amendments may be issued  
8 subject to the rules promulgated by the district and subject to  
9 terms and provisions with reference to the drilling, equipping,  
10 completion, alteration, or operation of, or production of  
11 groundwater from, wells or pumps that may be necessary to prevent  
12 waste and achieve water conservation, minimize as far as  
13 practicable the drawdown of the water table or the reduction of  
14 artesian pressure, lessen interference between wells, or control  
15 and prevent subsidence.

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

18           (b) For each activity for which the district determines a  
19 permit or permit amendment is required under Subsection (a), and  
20 that is not exempt from a hearing requirement under Section 36.1145  
21 or 36.1146, the district by rule shall determine whether a hearing  
22 on the permit or permit amendment application is required.

23           (c) For all applications for which a hearing is not required  
24 under Subsection (b), Section 36.1145, or Section 36.1146, the  
25 board shall act on the application at a meeting, as defined by  
26 Section 551.001, Government Code, unless the board by rule has  
27 delegated to the general manager the authority to act on the

1 application.

2 SECTION 3. Subchapter D, Chapter 36, Water Code, is amended  
3 by adding Sections 36.1145, 36.1146, and 36.1147 to read as  
4 follows:

5 Sec. 36.1145. PERMIT RENEWAL. (a) Except as provided by  
6 Subsection (b), a district shall renew a permit without a hearing  
7 before the date on which the permit expires, provided that:

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

11 (2) the amount of groundwater to be withdrawn from the  
12 well is not more than the amount allowed by the permit the applicant  
13 seeks to renew.

14 (b) A district is not required to renew a permit or consider  
15 a permit amendment application if the applicant:

16 (1) fails to pay a fee required by the district;

17 (2) has committed a violation of a district permit or  
18 rule that has not been settled by agreement with the district or a  
19 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; NO HEARING REQUIRED. A  
23 district may not require a hearing for a well permit amendment  
24 application that does not change the permitted:

25 (1) point of groundwater withdrawal;

26 (2) place of using the water;

27 (3) purpose of using the water; or

1           (4) rate or amount of groundwater withdrawals from the  
2 well.

3           Sec. 36.1147. PERMIT AMENDMENT REQUIRED BY CHANGE IN  
4 CONDITIONS. (a) After notice and hearing conducted in accordance  
5 with Subchapter M, a district may amend an operating permit to  
6 adjust the rate or amount of permitted groundwater withdrawals only  
7 to:

8           (1) respond to:

9                   (A) drought conditions;

10                   (B) a significant change in the aquifer  
11 condition; or

12                   (C) a significant change in groundwater  
13 availability arising from a change in the district's management  
14 plan designed to meet a desired future condition; or

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

16           (b) A district may not amend under this section the rate or  
17 amount of groundwater withdrawals authorized by an operating permit  
18 by more than five percent.

19           (c) If a district amends a permit under this section, the  
20 district must similarly amend all similarly situated permits  
21 affected by the applicable condition.

22           (d) Before a district amends a permit under this section,  
23 the general manager must demonstrate by a preponderance of evidence  
24 that a condition described by Subsection (a) of this section exists  
25 and justifies the amendment.

26           (e) This section does not prohibit a district from:

27                   (1) increasing or decreasing the amount of groundwater

1 that may be produced under a permit based on a condition existing in  
2 the permit; or

3 (2) suspending or revoking a permit for a violation of  
4 the terms of the permit.

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

7 (a) The [~~If an application for a permit or an amendment to a~~  
8 ~~permit under Section 36.113 proposes the transfer of groundwater~~  
9 ~~outside of a district's boundaries, the~~] district may also consider  
10 the provisions of this section in determining whether to grant or  
11 deny the permit or permit amendment, if:

12 (1) an application for a permit or an amendment to a  
13 permit under Section 36.113 proposes the transfer of groundwater  
14 outside of a district's boundaries; and

15 (2) the permit or permit amendment does not meet the  
16 requirements for approval without a hearing under Section 36.1145  
17 or 36.1146.

18 SECTION 5. Section 36.402, Water Code, is amended to read as  
19 follows:

20 Sec. 36.402. APPLICABILITY. Except as provided by Section  
21 36.416, this subchapter applies to the notice and hearing process  
22 used by a district for permit and permit amendment applications for  
23 which a hearing is required.

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

27 SECTION 7. Sections 36.1145, 36.1146, and 36.1147, Water

1 Code, as added by this Act, apply only to an application for a  
2 permit or permit amendment submitted to a groundwater conservation  
3 district on or after the effective date of this Act. An application  
4 for a permit or permit amendment submitted to a groundwater  
5 conservation district before that date is governed by the law in  
6 effect on the date the application was submitted, and the former law  
7 is continued in effect for that purpose.

8 SECTION 8. To the extent of any conflict with other  
9 provisions of Chapter 36, Water Code, Sections 36.113(d) and (f),  
10 36.114(b) and (c), 36.122(a), and 36.402, Water Code, as amended by  
11 this Act, and Sections 36.1145, 36.1146, and 36.1147, Water Code,  
12 as added by this Act, prevail.

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