

By: Rodriguez of Bexar

H.B. No. 2768

A BILL TO BE ENTITLED

AN ACT

relating to the administration and judicial review of a suit involving a groundwater conservation district.

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

SECTION 1. Section 36.251, Water Code, is amended to read as follows:

Sec. 36.251. SUIT AGAINST DISTRICT. A person, firm, corporation, or association of persons affected by and dissatisfied with any provision or with any rule or order made by a district is entitled to file a suit against the district or its directors to challenge the validity of the law, rule, or order. The suit shall be filed in a court of competent jurisdiction in Travis County or any county in which the district or any part of the district is located. The suit may only be filed after all administrative appeals to the district are final.

SECTION 2. Section 36.253, Water Code, is amended to read as follows:

Sec. 36.253. TRIAL OF SUIT. (a) The burden of proof is on the petitioner~~[, and the challenged law, rule, order, or act shall be deemed prima facie valid]~~.

(b) If the challenged law, rule, order, or act was made or taken by the district based on the district's review of the proposal for decision and findings of fact and conclusions of law prepared by an administrative law judge under a hearing conducted by the State

1 Office of Administrative Hearings in accordance with a contract
2 entered into under Section 36.416, the ~~[The]~~ review on appeal is
3 governed by the substantial evidence rule as defined by Section
4 2001.174, Government Code.

5 (c) If the challenged law, rule, order, or act was made or
6 taken by the district on the basis of any procedure other than a
7 hearing conducted by the State Office of Administrative Hearings
8 under a contract in accordance with Section 36.416, the review on
9 appeal is by trial de novo in accordance with Section 2001.173,
10 Government Code.

11 SECTION 3. Sections 36.066(g) and 36.102(d), Water Code,
12 are repealed.

13 SECTION 4. The changes in law made by this Act apply only to
14 a suit involving a groundwater conservation district that is filed
15 on or after the effective date of this Act. A suit filed before the
16 effective date of this Act is subject to the law in effect on the
17 date the suit is filed, and that law is continued in effect for that
18 purpose.

19 SECTION 5. This Act takes effect September 1, 2013.