

By: Price

H.B. No. 3535

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the management, operation, rulemaking authority, and
3 oversight of groundwater conservation districts.

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

5 SECTION 1. Section 36.1071, Water Code, is amended by
6 amending Subsections (c) and (f) and adding Subsection (f-1) and
7 (i) to read as follows:

8 (c) The commission and the Texas Water Development Board
9 shall provide technical assistance to a district in the development
10 of the management plan required under Subsection (a) that ~~[which]~~
11 may include, if requested by the district, a preliminary review and
12 comment on the plan prior to final approval by the Texas Water
13 Development Board ~~[board]~~. If such review and comment by the
14 commission is requested, the commission shall provide comment not
15 later than 30 days from the date the request is received.

16 (f) ~~[The district shall adopt rules necessary to implement~~
17 ~~the management plan.]~~ Prior to the development of the district's
18 management plan and the final ~~[its]~~ approval of that plan under
19 Section 36.1072, the district:

20 (1) may accept applications for permits submitted to
21 the district under Section 36.113;

22 (2) may issue interim permits as provided by Section
23 36.1133;

24 (3) may ~~[not]~~ adopt rules relating to:

1 (A) ~~[other than rules pertaining to]~~ the
2 registration of, [and] interim permitting of, metering of,
3 reporting of production from, spacing of, and assessment of fees
4 based on authorized or actual production of water from new and
5 existing wells; and

6 (B) ~~[and rules governing spacing and]~~ procedure
7 before the district's board; and

8 (4) ~~[however, the district]~~ may not:

9 (A) adopt any rules limiting the production of
10 wells, except rules requiring that groundwater produced from a well
11 be put to a nonwasteful, beneficial use; or

12 (B) take any action regarding a permit ~~[. The~~
13 ~~district may accept applications for permits under Section 36.113,~~
14 ~~provided the district does not act on any such]~~ application, other
15 than an application for an interim permit ~~[until the district's~~
16 ~~management plan is approved as provided in Section 36.1072].~~

17 (f-1) After the district's management plan is finally
18 approved under Section 36.1072, the district shall adopt or amend
19 rules limiting the production of wells or allocating groundwater
20 and review and amend the terms of any interim permits issued by the
21 district as necessary to implement the management plan and achieve
22 the applicable desired future conditions. The district may not
23 adopt or amend rules limiting the production of wells or allocating
24 groundwater if the district fails to:

25 (1) adopt a management plan as required by this
26 section;

27 (2) submit a management plan to the executive

1 administrator as required by Section 36.1072; and

2 (3) receive approval of the management plan under
3 Section 36.1072.

4 (i) The commission shall take action under section 36.303
5 pursuant to a petition filed under Section 36.1082 or on the
6 commission's own initiative to ensure that all districts in the
7 state comply with the requirements of this section.

8 SECTION 2. Section 36.1072, Water Code, is amended by
9 amending Subsection (c) and adding Subsection (c-1) to read as
10 follows:

11 (c) Once the executive administrator has granted
12 administrative approval to ~~[approved]~~ a district's management
13 plan:

14 (1) the executive administrator may not revoke but may
15 require revisions to the approved management plan as provided by
16 Subsection (g); and

17 (2) the executive administrator may request
18 additional information from the district if the information is
19 necessary to clarify, modify, or supplement previously submitted
20 material~~[, but a request for additional information does not render~~
21 ~~the management plan unapproved]~~.

22 (c-1) Not later than the 60th day after the date of the
23 administrative approval of a district's management plan under
24 Subsection (c), the executive administrator shall review the
25 management plan to determine whether goals of the management plan
26 are consistent with the achievement of the desired future
27 conditions established under Section 36.108(d) that are applicable

1 to all or part of the district, considering any available
2 information regarding groundwater levels, and:

- 3 (1) request additional information from the district;
4 (2) recommend that the district make substantive
5 changes to the management plan; or
6 (3) approve the management plan.

7 SECTION 3. Section 36.1073, Water Code, is amended to read
8 as follows:

9 Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment
10 to a district's ~~the~~ management plan shall be submitted to the
11 executive administrator within 60 days following adoption of the
12 amendment by the district's board. The executive administrator
13 shall review and approve any amendment that ~~which~~ substantially
14 affects the management plan in accordance with the procedures
15 established under Section 36.1072.

16 SECTION 4. Subsection (b), Section 36.1082, Water Code, is
17 amended to read as follows:

18 (b) An affected person may file a petition with the
19 commission requesting an inquiry for any of the following reasons:

20 (1) a district fails to submit its management plan to
21 the executive administrator;

22 (2) a district fails to participate in the joint
23 planning process under section 36.108;

24 (3) a district fails to adopt rules;

25 (4) a district fails to adopt the applicable desired
26 future conditions adopted by the management area at a joint
27 meeting;

1 (5) a district fails to update its management plan
2 before the second anniversary of the adoption of desired future
3 conditions by the management area;

4 (6) a district fails to update its rules to implement
5 the applicable desired future conditions before the first
6 anniversary of the date it updated its management plan with the
7 adopted desired future conditions;

8 (7) the rules adopted by a district are not designed to
9 achieve the desired future conditions adopted by the management
10 area during the joint planning process;

11 (8) the rules adopted by the district do not achieve
12 the applicable desired future condition;

13 (9)(~~8~~) the groundwater in the management area is not
14 adequately protected by the rules adopted by a district; or

15 (10)(~~9~~) the groundwater in the management area is not
16 adequately protected due to the failure of a district to enforce
17 substantial compliance with its rules.

18 SECTION 5. Section 36.1083(d), Water Code, is amended to
19 read as follows:

20 (d) The districts shall prepare [~~a~~] revised conditions
21 [~~plan~~] in accordance with development board recommendations and
22 hold, after notice, at least one public hearing at a central
23 location in the management area. After consideration of all public
24 and development board comments, the districts shall revise the
25 conditions and submit the conditions to the development board for
26 review.

27 SECTION 6. Subchapter D, Chapter 36, Water Code, is amended

1 by adding Section 36.1133 to read as follows:

2 Sec. 36.1133. INTERIM PERMITS. (a) Before a district's
3 first management plan is finally approved under Section 36.1072, a
4 district may issue an interim permit for any activity regulated by
5 the district for which a permit is required, subject to:

6 (1) rules adopted by the district; and

7 (2) modification of the terms of the interim permit as
8 necessary to implement the district's management plan and achieve
9 the applicable desired future conditions after the management plan
10 is finally approved under that section.

11 (b) Section 36.113 and the provisions of this chapter
12 relating to permits issued under that section apply to a permit
13 issued under this section to the extent those provisions may be made
14 applicable.

15 SECTION 7. Section 36.207, Water Code, is amended to read as
16 follows:

17 Sec. 36.207. USE OF PRODUCTION [~~PERMIT~~] FEES AUTHORIZED BY
18 SPECIAL LAW. A district may use funds obtained from production
19 [~~permit~~] fees collected pursuant to the special law governing the
20 district for any purpose consistent with the district's approved
21 management plan including, without limitation, making grants,
22 loans, or contractual payments to achieve, facilitate, or expedite
23 reductions in groundwater pumping or the development or
24 distribution of alternative water supplies.

25 SECTION 8. Section 36.301, Water Code, is amended to read as
26 follows:

27 Sec. 36.301. VIOLATIONS RELATED TO [~~FAILURE TO SUBMIT A~~]

1 MANAGEMENT PLAN. The commission shall take appropriate action
2 under Section 36.303 if:

3 (1) a district adopts or amends a rule in violation of
4 Section 36.1071(f-1);

5 (2) [if] a district fails to submit a management plan
6 or to receive approval of the [its] management plan under Section
7 36.1072;

8 (3) a district fails to timely readopt the management
9 plan or to submit the readopted management plan to the executive
10 administrator for approval in accordance with Section 36.1072(e);

11 (4) the executive administrator determines that a
12 readopted management plan does not meet the requirements for
13 approval, and the district has exhausted all appeals; [r] or

14 (5) a district fails to submit or receive approval of
15 an amendment to the management plan under Section 36.1073 [~~the~~
16 commission shall take appropriate action under Section 36.303].

17 SECTION 9. (a) Section 36.1071, Water Code, as amended by
18 this Act, applies only to the rulemaking authority of a groundwater
19 conservation district related to a management plan or an amendment
20 to a management plan that is submitted by the district to the
21 executive administrator of the Texas Water Development Board for
22 review and approval on or after the effective date of this Act. A
23 district's rulemaking authority related to a management plan or an
24 amendment to a management plan that is submitted to the executive
25 administrator of the Texas Water Development Board before the
26 effective date of this Act is governed by the law in effect when the
27 management plan or amendment was submitted, and the former law is

1 continued in effect for that purpose.

2 (b) The change in law made by this Act to Section 36.301,
3 Water Code, applies only to a violation by a groundwater
4 conservation district that occurs on or after the effective date of
5 this Act. A violation that occurs before the effective date of this
6 Act is governed by the law in effect on the date the violation
7 occurred, and the former law is continued in effect for that
8 purpose.

9 SECTION 10. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2013.