

By: Keffer

H.B. No. 3597

A BILL TO BE ENTITLED

AN ACT

relating to exports of groundwater from a groundwater conservation district.

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

SECTION 1. SECTION 1. Section 36.122, Water Code, is amended to read as follows:

Sec. 36.122. EXPORT [~~TRANSFER~~] OF GROUNDWATER OUT OF DISTRICT. (a) If an application for a permit or an amendment to a permit under Section 36.113 proposes the export [~~transfer~~] of groundwater outside of a district's boundaries, the district may also consider the provisions of this section in determining whether to grant or deny the permit or permit amendment.

(b) A district may promulgate rules requiring a person to obtain a permit or an amendment to a permit under Section 36.113 from the district [~~for the transfer of~~] to export groundwater [~~out of the district~~] to:

(1) increase, on or after March 2, 1997, the amount of groundwater to be [~~transferred~~] exported under a continuing arrangement in effect before that date; or

(2) [~~transfer~~] export groundwater [~~out of the district~~] on or after March 2, 1997, under a new arrangement.

(c) Except as provided in Section 36.113(e), the district may not impose more restrictive permit conditions on [~~transporters~~] exporters than the district imposes on existing in-district users.

1 The district may not deny a permit based on the fact that the  
2 applicant seeks to export groundwater. A district may not prohibit  
3 the export of groundwater.

4 (d) The district may impose a reasonable fee for processing  
5 an application under this section. The fee may not exceed fees that  
6 the district imposes for processing other applications under  
7 Section 36.113. An application filed to comply with this section  
8 shall be considered and processed under the same procedures as  
9 other applications for permits under Section 36.113 and shall be  
10 combined with applications filed to obtain a permit for in-district  
11 water use under Section 36.113 from the same applicant.

12 (e) The district may impose an export [~~a reasonable~~] fee or  
13 surcharge [~~for an export fee~~] using one of the following methods:

14 (1) a fee negotiated between the district and the  
15 exporter [~~transporter~~];

16 (2) a rate not to exceed the equivalent of the  
17 district's tax rate per hundred dollars of valuation for each  
18 thousand gallons of water exported from [~~transferred out of~~] the  
19 district or 2.5 cents per thousand gallons of water, if the district  
20 assesses a tax rate of less than 2.5 cents per hundred dollars of  
21 valuation; or

22 (3) for a fee-based district, a 50 percent export  
23 surcharge, in addition to the district's production fee, for water  
24 exported from [~~transferred out of~~] the district.

25 [~~(f) In reviewing a proposed transfer of groundwater out of~~  
26 ~~the district, the district shall consider:~~

27 (1) ~~the availability of water in the district and in~~

1 ~~the proposed receiving area during the period for which the water~~  
2 ~~supply is requested;~~

3 ~~(2) the projected effect of the proposed transfer on~~  
4 ~~aquifer conditions, depletion, subsidence, or effects on existing~~  
5 ~~permit holders or other groundwater users within the district; and~~

6 ~~(3) the approved regional water plan and approved~~  
7 ~~district management plan.~~

8 ~~(g) The district may not deny a permit based on the fact that~~  
9 ~~the applicant seeks to transfer groundwater outside of the district~~  
10 ~~but may limit a permit issued under this section if conditions in~~  
11 ~~Subsection (f) warrant the limitation, subject to Subsection (c)].~~

12 (h) In addition to conditions provided by Section 36.1131,  
13 the permit shall specify:

14 (1) the amount of water that may be exported from  
15 ~~[transferred out of]~~ the district; and

16 (2) the period for which the water may be exported  
17 ~~[transferred]~~.

18 (i) The period specified by Subsection (h)(2) shall be:

19 (1) at least three years if construction of a  
20 conveyance system has not been initiated prior to the issuance of  
21 the permit; or

22 (2) at least 30 years if construction of a conveyance  
23 system has been initiated prior to the issuance of the permit.

24 (j) A term under Subsection (i)(1) shall automatically be  
25 extended to the terms agreed to under Subsection (i)(2) if  
26 construction of a conveyance system is begun before the expiration  
27 of the initial term.

1           ~~[(k) Notwithstanding the period specified in Subsections~~  
2 ~~(i) and (j) during which water may be transferred under a permit, a~~  
3 ~~district may periodically review the amount of water that may be~~  
4 ~~transferred under the permit and may limit the amount if additional~~  
5 ~~factors considered in Subsection (f) warrant the limitation,~~  
6 ~~subject to Subsection (c). The review described by this subsection~~  
7 ~~may take place not more frequently than the period provided for the~~  
8 ~~review or renewal of regular permits issued by the district. In its~~  
9 ~~determination of whether to renew a permit issued under this~~  
10 ~~section, the district shall consider relevant and current data for~~  
11 ~~the conservation of groundwater resources and shall consider the~~  
12 ~~permit in the same manner it would consider any other permit in the~~  
13 ~~district.~~

14           ~~(l) A district is prohibited from using revenues obtained~~  
15 ~~under Subsection (c) to prohibit the transfer of groundwater~~  
16 ~~outside of a district. A district is not prohibited from using~~  
17 ~~revenues obtained under Subsection (c) for paying expenses related~~  
18 ~~to enforcement of this chapter or district rules.~~

19           ~~(m) A district may not prohibit the export of groundwater if~~  
20 ~~the purchase was in effect on or before June 1, 1997.~~

21           ~~(n) This section applies only to a transfer of water that is~~  
22 ~~permitted after September 1, 1997.~~

23           ~~(o) A district shall adopt rules as necessary to implement~~  
24 ~~this section but may not adopt rules expressly prohibiting the~~  
25 ~~export of groundwater].~~

26           (p) Subsection (e) does not apply to a district that is  
27 collecting an export fee or surcharge on March 1, 2001.

1           ~~[(q) In applying this section, a district must be fair,~~  
2 ~~impartial, and nondiscriminatory.]~~

3           SECTION 2. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2015.