

By: Zaffirini
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S.B. No. 854

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 36.001, Water Code, is amended by adding Subdivision (31) to read as follows:

(31) "Operating permit" means any permit issued by the district for the operation of or production from a well, including a permit to drill or complete a well if the district does not require a separate permit for the drilling or completion of a well.

SECTION 2. Sections 36.113(d) and (f), Water Code, are amended to read as follows:

(d) This subsection does not apply to the renewal of an operating permit issued under Section 36.1145. Before granting or denying a permit, or a permit amendment issued in accordance with Section 36.1146, the district shall consider whether:

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

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

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

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

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

7 (6) the applicant has agreed to avoid waste and
8 achieve water conservation; and

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

12 (f) This subsection does not apply to the renewal of an
13 operating permit issued under Section 36.1145. Permits, and permit
14 amendments issued in accordance with Section 36.1146, may be issued
15 subject to the rules promulgated by the district and subject to
16 terms and provisions with reference to the drilling, equipping,
17 completion, alteration, or operation of, or production of
18 groundwater from, wells or pumps that may be necessary to prevent
19 waste and achieve water conservation, minimize as far as
20 practicable the drawdown of the water table or the reduction of
21 artesian pressure, lessen interference between wells, or control
22 and prevent subsidence.

23 SECTION 3. Sections 36.114(b) and (c), Water Code, are
24 amended to read as follows:

25 (b) For each activity for which the district determines a
26 permit or permit amendment is required under Subsection (a), and
27 that is not exempt from a hearing requirement under Section

1 36.1145, the district by rule shall determine whether a hearing on
2 the permit or permit amendment application is required.

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

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

10 Sec. 36.1145. OPERATING PERMIT RENEWAL. (a) Except as
11 provided by Subsection (b), a district shall without a hearing
12 renew or approve an application to renew an operating permit before
13 the date on which the permit expires, provided that:

14 (1) the application, if required by the district, is
15 submitted in a timely manner and accompanied by any required fees in
16 accordance with district rules; and

17 (2) the permit holder is not requesting a change
18 related to the renewal that would require a permit amendment under
19 district rules.

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

22 (1) is delinquent in paying a fee required by the
23 district;

24 (2) is subject to a pending enforcement action for a
25 substantive violation of a district permit, order, or rule that has
26 not been settled by agreement with the district or a final
27 adjudication; or

1 (3) has not paid a civil penalty or has otherwise
2 failed to comply with an order resulting from a final adjudication
3 of a violation of a district permit, order, or rule.

4 (c) If a district is not required to renew a permit under
5 Subsection (b)(2), the permit remains in effect until the final
6 settlement or adjudication on the matter of the substantive
7 violation.

8 Sec. 36.1146. CHANGE IN OPERATING PERMITS. (a) If the
9 holder of an operating permit, in connection with the renewal of a
10 permit or otherwise, requests a change that requires an amendment
11 to the permit under district rules, the permit as it existed before
12 the permit amendment process remains in effect until the later of:

13 (1) the conclusion of the permit amendment or renewal
14 process, as applicable; or

15 (2) final settlement or adjudication on the matter of
16 whether the change to the permit requires a permit amendment.

17 (b) If the permit amendment process results in the denial of
18 an amendment, the permit as it existed before the permit amendment
19 process shall be renewed under Section 36.1145 without penalty,
20 unless Subsection (b) of that section applies to the applicant.

21 (c) A district may initiate an amendment to an operating
22 permit, in connection with the renewal of a permit or otherwise, in
23 accordance with the district's rules. If a district initiates an
24 amendment to an operating permit, the permit as it existed before
25 the permit amendment process shall remain in effect until the
26 conclusion of the permit amendment or renewal process, as
27 applicable.

1 SECTION 5. Section 36.402, Water Code, is amended to read as
2 follows:

3 Sec. 36.402. APPLICABILITY. Except as provided by Section
4 36.416, this subchapter applies to the notice and hearing process
5 used by a district for permit and permit amendment applications for
6 which a hearing is required.

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

10 SECTION 7. Sections 36.1145 and 36.1146, Water Code, as
11 added by this Act, apply only to a permit renewal for a permit
12 issued by a groundwater conservation district initiated on or after
13 the effective date of this Act. A permit renewal initiated before
14 that date is governed by the law in effect on the date the permit
15 renewal was initiated, and the former law is continued in effect for
16 that purpose.

17 SECTION 8. This Act takes effect September 1, 2015.