

By: Zaffirini

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) Except as provided by Sections 36.1145 and 36.1146, before [~~Before~~] granting or denying a permit or permit amendment, 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;

(4) the proposed use of water is consistent with the

1 district's approved management plan;

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

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

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

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

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

22 (b) For each activity for which the district determines a
23 permit or permit amendment is required under Subsection (a), and
24 that is not exempt from a hearing requirement under Section
25 36.1145, the district by rule shall determine whether a hearing on
26 the permit or permit amendment application is required.

27 (c) For all applications for which a hearing is not required

1 under Subsection (b) or Section 36.1145, the board shall act on the
2 application at a meeting, as defined by Section 551.001, Government
3 Code, unless the board by rule has delegated to the general manager
4 the authority to act on the application.

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

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

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

14 (2) the permit holder is not requesting a change
15 related to the renewal that would require a permit amendment under
16 district rules.

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

19 (1) is delinquent in paying a fee required by the
20 district;

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

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

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

5 Sec. 36.1146. CHANGE IN OPERATING PERMITS. (a) If the
6 holder of an operating permit, in connection with the renewal of a
7 permit or otherwise, requests a change to the permit that requires
8 an amendment to the permit under district rules, the original
9 permit remains in effect until the later of:

10 (1) the conclusion of the permit amendment or renewal
11 process, as applicable; or

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

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

19 (c) A district may initiate an amendment to an operating
20 permit, in connection with the renewal of a permit or otherwise, in
21 order to achieve a purpose of this chapter. If a district initiates
22 an amendment to an operating permit, the original permit shall
23 remain in effect until the conclusion of the permit amendment or
24 renewal process, as applicable.

25 SECTION 5. Section 36.402, Water Code, is amended to read as
26 follows:

27 Sec. 36.402. APPLICABILITY. Except as provided by Section

1 36.416, this subchapter applies to the notice and hearing process
2 used by a district for permit and permit amendment applications for
3 which a hearing is required.

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

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

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