

1-1 By: Zaffirini S.B. No. 854  
1-2 (In the Senate - Filed March 2, 2015; March 4, 2015, read  
1-3 first time and referred to Committee on Agriculture, Water, and  
1-4 Rural Affairs; April 22, 2015, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 April 22, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 854 By: Creighton

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the renewal or amendment of certain permits issued by  
1-20 groundwater conservation districts.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 36.001, Water Code, is amended by adding  
1-23 Subdivision (31) to read as follows:

1-24 (31) "Operating permit" means any permit issued by the  
1-25 district for the operation of or production from a well, including a  
1-26 permit to drill or complete a well if the district does not require  
1-27 a separate permit for the drilling or completion of a well.

1-28 SECTION 2. Sections 36.113(d) and (f), Water Code, are  
1-29 amended to read as follows:

1-30 (d) This subsection does not apply to the renewal of an  
1-31 operating permit issued under Section 36.1145. Before granting or  
1-32 denying a permit, or a permit amendment issued in accordance with  
1-33 Section 36.1146, the district shall consider whether:

1-34 (1) the application conforms to the requirements  
1-35 prescribed by this chapter and is accompanied by the prescribed  
1-36 fees;

1-37 (2) the proposed use of water unreasonably affects  
1-38 existing groundwater and surface water resources or existing permit  
1-39 holders;

1-40 (3) the proposed use of water is dedicated to any  
1-41 beneficial use;

1-42 (4) the proposed use of water is consistent with the  
1-43 district's approved management plan;

1-44 (5) if the well will be located in the Hill Country  
1-45 Priority Groundwater Management Area, the proposed use of water  
1-46 from the well is wholly or partly to provide water to a pond, lake,  
1-47 or reservoir to enhance the appearance of the landscape;

1-48 (6) the applicant has agreed to avoid waste and  
1-49 achieve water conservation; and

1-50 (7) the applicant has agreed that reasonable diligence  
1-51 will be used to protect groundwater quality and that the applicant  
1-52 will follow well plugging guidelines at the time of well closure.

1-53 (f) This subsection does not apply to the renewal of an  
1-54 operating permit issued under Section 36.1145. Permits, and permit  
1-55 amendments issued in accordance with Section 36.1146, may be issued  
1-56 subject to the rules promulgated by the district and subject to  
1-57 terms and provisions with reference to the drilling, equipping,  
1-58 completion, alteration, or operation of, or production of  
1-59 groundwater from, wells or pumps that may be necessary to prevent  
1-60 waste and achieve water conservation, minimize as far as

2-1 practicable the drawdown of the water table or the reduction of  
2-2 artesian pressure, lessen interference between wells, or control  
2-3 and prevent subsidence.

2-4 SECTION 3. Sections 36.114(b) and (c), Water Code, are  
2-5 amended to read as follows:

2-6 (b) For each activity for which the district determines a  
2-7 permit or permit amendment is required under Subsection (a), and  
2-8 that is not exempt from a hearing requirement under Section  
2-9 36.1145, the district by rule shall determine whether a hearing on  
2-10 the permit or permit amendment application is required.

2-11 (c) For all applications for which a hearing is not required  
2-12 under Subsection (b) or Section 36.1145, the board shall act on the  
2-13 application at a meeting, as defined by Section 551.001, Government  
2-14 Code, unless the board by rule has delegated to the general manager  
2-15 the authority to act on the application.

2-16 SECTION 4. Subchapter D, Chapter 36, Water Code, is amended  
2-17 by adding Sections 36.1145 and 36.1146 to read as follows:

2-18 Sec. 36.1145. OPERATING PERMIT RENEWAL. (a) Except as  
2-19 provided by Subsection (b), a district shall without a hearing  
2-20 renew or approve an application to renew an operating permit before  
2-21 the date on which the permit expires, provided that:

2-22 (1) the application, if required by the district, is  
2-23 submitted in a timely manner and accompanied by any required fees in  
2-24 accordance with district rules; and

2-25 (2) the permit holder is not requesting a change  
2-26 related to the renewal that would require a permit amendment under  
2-27 district rules.

2-28 (b) A district is not required to renew a permit under this  
2-29 section if the applicant:

2-30 (1) is delinquent in paying a fee required by the  
2-31 district;

2-32 (2) is subject to a pending enforcement action for a  
2-33 substantive violation of a district permit, order, or rule that has  
2-34 not been settled by agreement with the district or a final  
2-35 adjudication; or

2-36 (3) has not paid a civil penalty or has otherwise  
2-37 failed to comply with an order resulting from a final adjudication  
2-38 of a violation of a district permit, order, or rule.

2-39 (c) If a district is not required to renew a permit under  
2-40 Subsection (b)(2), the permit remains in effect until the final  
2-41 settlement or adjudication on the matter of the substantive  
2-42 violation.

2-43 Sec. 36.1146. CHANGE IN OPERATING PERMITS. (a) If the  
2-44 holder of an operating permit, in connection with the renewal of a  
2-45 permit or otherwise, requests a change that requires an amendment  
2-46 to the permit under district rules, the permit as it existed before  
2-47 the permit amendment process remains in effect until the later of:

2-48 (1) the conclusion of the permit amendment or renewal  
2-49 process, as applicable; or

2-50 (2) final settlement or adjudication on the matter of  
2-51 whether the change to the permit requires a permit amendment.

2-52 (b) If the permit amendment process results in the denial of  
2-53 an amendment, the permit as it existed before the permit amendment  
2-54 process shall be renewed under Section 36.1145 without penalty,  
2-55 unless Subsection (b) of that section applies to the applicant.

2-56 (c) A district may initiate an amendment to an operating  
2-57 permit, in connection with the renewal of a permit or otherwise, in  
2-58 accordance with the district's rules. If a district initiates an  
2-59 amendment to an operating permit, the permit as it existed before  
2-60 the permit amendment process shall remain in effect until the  
2-61 conclusion of the permit amendment or renewal process, as  
2-62 applicable.

2-63 SECTION 5. Section 36.402, Water Code, is amended to read as  
2-64 follows:

2-65 Sec. 36.402. APPLICABILITY. Except as provided by Section  
2-66 36.416, this subchapter applies to the notice and hearing process  
2-67 used by a district for permit and permit amendment applications for  
2-68 which a hearing is required.

2-69 SECTION 6. As soon as practicable after the effective date

3-1 of this Act, groundwater conservation districts shall adopt rules  
3-2 to implement the changes in law made by this Act.

3-3 SECTION 7. Sections 36.1145 and 36.1146, Water Code, as  
3-4 added by this Act, apply only to a permit renewal for a permit  
3-5 issued by a groundwater conservation district initiated on or after  
3-6 the effective date of this Act. A permit renewal initiated before  
3-7 that date is governed by the law in effect on the date the permit  
3-8 renewal was initiated, and the former law is continued in effect for  
3-9 that purpose.

3-10 SECTION 8. This Act takes effect September 1, 2015.

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