

By: Larson

H.B. No. 31

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of groundwater.

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

SECTION 1. Sections 36.113(c) and (d), Water Code, are amended to read as follows:

(c) A district may require that only the following be included in the permit or permit amendment application, as applicable under the rules of the district:

(1) the name and mailing address of the applicant and the owner of the land on which the well will be located;

(2) if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;

(3) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

(4) a water conservation plan or a declaration that the applicant will comply with the district's management plan;

(5) the location of each well and the estimated rate at which water will be withdrawn;

(6) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the commission; ~~and~~

(7) a drought contingency plan; and

(8) other information:

1 (A) included in a rule of the district in effect
2 on the date the application is submitted that specifies what
3 information must be included in an application for a determination
4 of administrative completeness; and

5 (B) reasonably related to an issue that a
6 district is authorized to consider under this chapter.

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

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

14 (2) the projected effect of the proposed production
15 [use of water] unreasonably affects aquifer conditions, depletion,
16 subsidence, existing groundwater and surface water resources, or
17 existing permit holders;

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

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

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

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

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

SECTION 2. Section 36.114(h), Water Code, is amended to read as follows:

(h) An application is administratively complete if it contains the [application requires] information set forth under [in accordance with] Sections 36.113 and 36.1131. A district may not require that additional information be included in an application for a determination of administrative completeness.

SECTION 3. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1147 to read as follows:

Sec. 36.1147. LIMITATION ON APPLICABILITY OF RULES. The rules of a district in effect on the date an application for a permit or a permit amendment is submitted to the district are the only district rules that may govern the district's decision to grant or deny the application.

SECTION 4. The heading to Section 36.122, Water Code, is amended to read as follows:

Sec. 36.122. EXPORT [~~TRANSFER~~] OF GROUNDWATER OUT OF DISTRICT.

SECTION 5. Section 36.122, Water Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsections (f-1) and (f-2) to read as follows:

(a) This section applies to [If] an application for a permit or an amendment to a permit under Section 36.113 that proposes the export [transfer] of groundwater for use outside of a district's

1 boundaries~~[, the district may also consider the provisions of this~~
2 ~~section in determining whether to grant or deny the permit or permit~~
3 ~~amendment]~~.

4 (b) A district may promulgate rules requiring a person to
5 obtain an operating [a] permit or an amendment to an operating [a]
6 permit under Section 36.113 from the district to produce and export
7 ~~[for the transfer of]~~ groundwater. A district may not require a
8 separate permit for the export of groundwater for use outside [out]
9 of the district [to.]

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

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

15 (c) Except as provided in Subsection (e) ~~[Section~~
16 ~~36.113(e)]~~, the district may not impose more restrictive
17 requirements or permit conditions on exporters [transporters] than
18 the district imposes on ~~[existing]~~ in-district users. A district
19 may not deny a permit because the applicant intends to export
20 groundwater for use outside of the district.

21 (d) The district may impose a reasonable fee for processing
22 an application under this section. The fee may not exceed fees that
23 the district imposes for processing other applications under
24 Section 36.113. An application filed under ~~[to comply with]~~ this
25 section shall be considered and processed under the same procedures
26 as other applications for permits under Section 36.113 ~~[and shall~~
27 ~~be combined with applications filed to obtain a permit for~~

1 ~~in-district water use under Section 36.113 from the same~~
2 ~~applicant]~~.

3 (f-1) A term for a permit issued under this section that
4 existed on May 29, 2017, shall automatically be extended on or
5 before its expiration:

6 (1) to a term that is not shorter than the term of an
7 operating permit for the production of water to be exported that is
8 in effect at the time of the extension; and

9 (2) for each additional term for which that operating
10 permit for production is renewed under Section 36.1145 or remains
11 in effect under Section 36.1146.

12 (f-2) A term automatically extended under Subsection (f-1)
13 continues to be subject to conditions contained in the permit as
14 issued before the automatic extension.

15 SECTION 6. Chapter 36, Water Code, is amended by adding
16 Subchapter M-1 to read as follows:

17 SUBCHAPTER M-1. MORATORIUM ON ISSUING PERMIT

18 Sec. 36.426. PROCEDURE FOR ADOPTING MORATORIUM. A district
19 may not adopt a moratorium on the issuance of a permit or permit
20 amendment unless the district:

21 (1) complies with the notice and hearing procedures
22 prescribed by Section 36.427; and

23 (2) makes written findings supporting the district's
24 determination regarding the issuance, including the district's
25 justification for imposing the moratorium, if applicable.

26 Sec. 36.427. NOTICE AND PUBLIC HEARING REQUIREMENTS. (a) A
27 district may impose a moratorium on the issuance of a permit or

1 permit amendment only after the district conducts a public hearing
2 as provided by this section. The public hearing must provide
3 residents of the district and other affected parties an opportunity
4 to be heard.

5 (b) The district shall publish notice of the date, time, and
6 place of the hearing in a newspaper of general circulation in the
7 district on the fourth day before the date of the hearing.

8 (c) During the period beginning on the fifth business day
9 after the date a notice is published under Subsection (b) and ending
10 on the date the district makes its determination under Subsection
11 (d), a temporary moratorium is imposed. During that period, a
12 district may stop issuing permits or permit amendments.

13 (d) Not later than the 12th day after the date of the public
14 hearing, the district shall make a final determination on whether
15 to impose the moratorium and shall issue written findings
16 supporting the district's determination, including the district's
17 justification for imposing the moratorium, if applicable.

18 Sec. 36.428. EXPIRATION OF MORATORIUM; EXTENSION
19 PROHIBITED. A moratorium imposed under this subchapter expires on
20 the 90th day after the date the district makes its determination
21 under Section 36.427(d) to impose the moratorium. The district may
22 not extend a moratorium imposed under this subchapter.

23 SECTION 7. A moratorium on the issuance of a permit or
24 permit amendment that is adopted by a groundwater conservation
25 district under Subchapter M-1, Chapter 36, Water Code, as added by
26 this Act, before September 1, 2017, may not continue in effect later
27 than November 30, 2017.

1 SECTION 8. (a) A permit to export groundwater approved by a
2 groundwater conservation district before the effective date of this
3 Act is validated and confirmed in all respects. This subsection
4 does not apply to a permit to export groundwater that is subject to
5 litigation:

6 (1) that is pending on the effective date of this Act;
7 or

8 (2) that results in final judgment that may not be
9 appealed that the permit is invalid.

10 (b) An administratively complete permit application to
11 export groundwater received by a groundwater conservation district
12 before the effective date of this Act is governed by the law in
13 effect when the application became administratively complete. The
14 former law is continued for the purpose of processing an
15 application received before the effective date of this Act.

16 SECTION 9. Sections [36.122](#)(f), (g), (h), (i), (j), (k),
17 (l), (m), (n), (o), (p), and (q), Water Code, are repealed.

18 SECTION 10. This Act takes effect September 1, 2017.