

By: Larson

H.B. No. 4162

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 36.113(d), Water Code, is 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 projected effect of the proposed production ~~[use of water]~~ unreasonably affects aquifer conditions, depletion, subsidence, 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 district's approved management plan;

(5) if the well will be located in the Hill Country Priority Groundwater Management Area, the proposed use of water from the well is wholly or partly to provide water to a pond, lake,

1 or reservoir to enhance the appearance of the landscape;

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

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

7 SECTION 2. The heading to Section 36.122, Water Code, is
8 amended to read as follows:

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

11 SECTION 3. Section 36.122, Water Code, is amended by
12 amending Subsections (a), (b), (c), and (d) and adding Subsections
13 (f-1) and (f-2) to read as follows:

14 (a) This section applies to [~~If~~] an application for a permit
15 or an amendment to a permit under Section 36.113 that proposes the
16 export [~~transfer~~] of groundwater for use outside of a district's
17 boundaries [~~, the district may also consider the provisions of this~~
18 ~~section in determining whether to grant or deny the permit or permit~~
19 ~~amendment].~~

20 (b) A district may promulgate rules requiring a person to
21 obtain an operating [~~a~~] permit or an amendment to an operating [~~a~~]
22 permit under Section 36.113 from the district to produce and export
23 [~~for the transfer of~~] groundwater. A district may not require a
24 separate permit for the export of groundwater for use outside [~~out~~]
25 of the district [~~to~~].

26 [~~(1) increase, on or after March 2, 1997, the amount of~~
27 ~~groundwater to be transferred under a continuing arrangement in~~

1 ~~effect before that date, or~~

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

4 (c) Except as provided in Subsection (e) [~~Section~~
5 ~~36.113(e)~~], the district may not impose more restrictive
6 requirements or permit conditions on exporters [~~transporters~~] than
7 the district imposes on [~~existing~~] in-district users. A district
8 may not deny a permit because the applicant intends to export
9 groundwater for use outside of the district.

10 (d) The district may impose a reasonable fee for processing
11 an application under this section. The fee may not exceed fees that
12 the district imposes for processing other applications under
13 Section 36.113. An application filed under [~~to comply with~~] this
14 section shall be considered and processed under the same procedures
15 as other applications for permits under Section 36.113 [~~and shall~~
16 ~~be combined with applications filed to obtain a permit for~~
17 ~~in-district water use under Section 36.113 from the same~~
18 ~~applicant].~~

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

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

25 (2) for each additional term for which that operating
26 permit for production is renewed under Section 36.1145 or remains
27 in effect under Section 36.1146.

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

4 SECTION 4. Sections 36.122(f), (g), (h), (i), (j), (k),
5 (l), (m), (n), (o), (p), and (q), Water Code, are repealed.

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

11 (1) that is pending on the effective date of this Act;

12 or

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

15 (b) An administratively complete permit application to
16 export groundwater received by a groundwater conservation district
17 before the effective date of this Act is governed by the law in
18 effect when the application became administratively complete. The
19 former law is continued for the purpose of processing an
20 application received before the effective date of this Act.

21 SECTION 6. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2017.