

By: Perry

S.B. No. 862

A BILL TO BE ENTITLED

AN ACT

relating to the award of attorney's fees and other costs in certain proceedings involving a groundwater conservation district.

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

SECTION 1. Sections 36.066(g) and (h), Water Code, are amended to read as follows:

(g) In a suit to which [~~If~~] the district is a party, the prevailing party [~~prevails in any suit other than a suit in which it voluntarily intervenes, the district~~] may seek and the court shall grant, in the interests of justice and as provided by Subsection (h), in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the prevailing party [~~district~~] before the court. The amount of the attorney's fees shall be fixed by the court.

(h) If a party [~~the district~~] prevails on some, but not all, of the issues in the suit, the court shall award attorney's fees and costs only for those issues on which the party [~~district~~] prevails. The prevailing party [~~district~~] has the burden of segregating the attorney's fees and costs in order for the court to make an award.

SECTION 2. Section 36.102(d), Water Code, is amended to read as follows:

(d) In [~~If the district prevails in~~] any suit to enforce the district's [~~its~~] rules, the prevailing party [~~district~~] may seek and the court shall grant against any party [~~person~~], in the same

1 action, recovery for attorney's fees, costs for expert witnesses,  
2 and other costs incurred by the prevailing party [~~district~~] before  
3 the court. The amount of the attorney's fees shall be fixed by the  
4 court.

5 SECTION 3. The change in law made by this Act applies only  
6 to a proceeding commenced on or after the effective date of this  
7 Act. A proceeding commenced before the effective date of this Act  
8 is governed by the law applicable to the proceeding immediately  
9 before the effective date of this Act, and that law is continued in  
10 effect for that purpose.

11 SECTION 4. This Act takes effect September 1, 2017.