

By: Perry

S.B. No. 1053

A BILL TO BE ENTITLED

AN ACT

relating to an appeal of a desired future condition in a groundwater management area.

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

SECTION 1. Section 36.10835, Water Code, is amended to read as follows:

Sec. 36.10835. JUDICIAL APPEAL OF DESIRED FUTURE CONDITION [~~CONDITIONS~~]. (a) In this section:

(1) "Affected person" means, with respect to the management area in which the district is located:

(A) an owner of land in the management area;

(B) a groundwater conservation district or subsidence district in or adjacent to the management area;

(C) a regional water planning group with a water management strategy in the management area;

(D) a person who holds or is applying for a permit from a district in the management area; or

(E) a person with a legally defined interest in groundwater in the management area.

(2) "Development board" means the Texas Water Development Board.

(3) "District" means a district that is a party to an appeal under this section [~~A final district order issued under Section 36.1083 may be appealed to a district court with~~

1 ~~jurisdiction over any part of the territory of the district that~~
2 ~~issued the order. An appeal under this subsection must be filed~~
3 ~~with the district court not later than the 45th day after the date~~
4 ~~the district issues the final order. The case shall be decided~~
5 ~~under the substantial evidence standard of review as provided by~~
6 ~~Section 2001.174, Government Code].~~

7 (b) A district's adoption of a desired future condition
8 under Section 36.108(d-4) may be appealed by an affected person to a
9 district court with jurisdiction over any part of the territory of
10 the district. An appeal must be filed with the district court not
11 later than the 120th day after the date of the adoption. The
12 pleadings must provide evidence that the desired future condition
13 adopted by the districts was unreasonable.

14 (c) Not later than the 10th day after receiving notice of
15 the appeal, the district shall submit a copy of the pleadings to the
16 development board. On receipt of the pleadings, the development
17 board shall conduct:

18 (1) an administrative review to determine whether the
19 desired future condition established by the district meets the
20 criteria in Section 36.108(d); and

21 (2) a study containing scientific and technical
22 analysis of the desired future condition, including consideration
23 of:

24 (A) the hydrogeology of the aquifer;

25 (B) the explanatory report provided to the
26 development board under Section 36.108(d-3);

27 (C) the factors described under Section

1 36.108(d); and

2 (D) any relevant:

3 (i) groundwater availability models;

4 (ii) published studies;

5 (iii) estimates of total recoverable
6 storage capacity;

7 (iv) average annual amounts of recharge,
8 inflows, and discharge of groundwater; or

9 (v) information provided in the petition or
10 available to the development board.

11 (d) Not later than the 120th day after the date of receiving
12 a copy of the pleadings, the development board shall complete and
13 deliver to the court the review and study required by Subsection
14 (c). The development board shall make available relevant staff as
15 expert witnesses if requested by the court.

16 (e) If the court finds that a desired future condition is
17 unreasonable, the court shall strike the desired future condition
18 and order the districts in the same management area as the district
19 that was a party to the appeal [~~received the petition~~] to reconvene
20 not later than the 60th day after the date of the court order in a
21 joint planning meeting for the purpose of revising the desired
22 future condition. The districts in the management area shall
23 follow the procedures in Section 36.108 to adopt new desired future
24 conditions applicable to the district that was a party to the appeal
25 [~~received the petition~~].

26 (f) [~~(b)~~] A court's finding under this section does not
27 apply to a desired future condition that is not a matter before the

1 court.

2 SECTION 2. Section [36.1083](#), Water Code, is repealed.

3 SECTION 3. The change in law made by this Act applies to an
4 action filed on or after the effective date of this Act. An action
5 filed before the effective date of this Act is governed by the law
6 in effect on the date the action was filed, and the former law is
7 continued in effect for that purpose.

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