

BILL ANALYSIS

Senate Research Center
86R20772 GRM-F

C.S.S.B. 2026
By: Perry
Water & Rural Affairs
4/22/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2026 clarifies that a retail public utility in a groundwater conservation district which regulates groundwater with spacing and production rules must acquire acreage based upon the amount of water use.

A retail public utility can request water permits from the groundwater conservation district based on the land it owns. The utility can also utilize landowners' groundwater rights in the district if the landowners provide permission for their water rights to be used.

S.B. 2026 creates a process in which the utility can acquire the groundwater rights of landowners in the groundwater conservation district through a permission and public hearing process. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 2026 amends current law relating to regulation of the production of retail public utility wells by a groundwater conservation district.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.002(d), Water Code, as follows:

(d) Provides that this section (Ownership of Groundwater) does not:

- (1) makes no changes to this subdivision;
- (2) affect the ability of a district to regulate groundwater production as authorized under Section 36.113 (Permits for Wells; Permit Amendments), 36.116 (Regulation of Spacing and Production), 36.1161, or 36.122 (Transfer of Groundwater Out of District), rather than Section 36.113, 36.116, or 36.122, or otherwise under this chapter or a special law governing a district; or
- (3) makes no changes to this subdivision.

SECTION 2. Amends Subchapter D, Chapter 36, Water Code, by adding Section 36.1161, as follows:

Sec. 36.1161. REGULATION OF PRODUCTION BY RETAIL PUBLIC UTILITIES.

(a) Defines "retail public utility" for purposes of this section.

(b) Provides that this section applies only to a district that regulates production under Section 36.116 based on tract size or acreage.

(c) Authorizes a retail public utility to petition a district to authorize the retail public utility to produce groundwater based on:

- (1) the aggregate acreage owned or leased by the retail public utility; and

(2) the acreage of the landowners served by the retail public utility as provided by Subsection (d).

(d) Authorizes a district to only base a retail public utility's authorized production amount under this section in a manner consistent with district rules and based on acreage of landowners served by the retail public utility if:

(1) the utility has acquired from the landowner a real property interest in the groundwater beneath the land; or

(2) the landowner has provided written permission for the retail public utility to exercise the landowner's real property interest in the groundwater beneath the landowner's land until the landowner:

(A) drills a well and produces water from the land; or

(B) transfers title to the land or real property interest in the groundwater to another person.

(e) Requires the district to hold a public hearing to consider approval of a petition submitted under this section. Requires the district to require the retail public utility submitting the petition to provide written notice of the hearing not later than the 60th day before the date of the hearing to:

(1) the landowners served by the retail public utility;

(2) persons with permitted or registered wells in the district; and

(3) persons not described by Subdivision (1) or (2) who have a property interest in groundwater under land that is within one mile of the utility's wells in the district.

(f) Requires the district to consider a petition at a hearing under this section in the same manner as a rulemaking hearing under Section 36.101 (Rulemaking Power).

SECTION 3. Amends Section 36.414(a), Water Code, as follows:

(a) Requires a district, except as provided by Subsection (b) (relating to providing that a district is not required to use consolidated notice and hearing procedures under certain circumstances), to process applications from a single applicant under consolidated notice and hearing procedures on written request by the applicant if the district requires a separate permit or permit amendment application for:

(1) makes no changes to this subdivision;

(2) the spacing of water wells or the production of groundwater under Section 36.116 or 36.1161, rather than under Section 36.116; or

(3) makes no changes to this subdivision.

SECTION 4. Repealer: Section 36.116(c) (relating to authorizing a district to consider the service needs or service area of a retail public utility in regulating the production of groundwater), Water Code.

SECTION 5. Effective date: September 1, 2019.