

By: Perry

S.B. No. 2026

A BILL TO BE ENTITLED

AN ACT

relating to regulation of the production of retail public utility wells by a groundwater conservation district.

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

SECTION 1. Section 36.002(d), Water Code, is amended to read as follows:

(d) This section does not:

(1) prohibit a district from limiting or prohibiting the drilling of a well by a landowner for failure or inability to comply with minimum well spacing or tract size requirements adopted by the district;

(2) affect the ability of a district to regulate groundwater production as authorized under Section 36.113, 36.116, 36.1161, or 36.122 or otherwise under this chapter or a special law governing a district; or

(3) require that a rule adopted by a district allocate to each landowner a proportionate share of available groundwater for production from the aquifer based on the number of acres owned by the landowner.

SECTION 2. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1161 to read as follows:

Sec. 36.1161. REGULATION OF PRODUCTION BY RETAIL PUBLIC UTILITIES. (a) In this section, "retail public utility" has the meaning assigned by Section 13.002.

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

3 (c) A retail public utility may petition a district to
4 authorize the retail public utility to produce groundwater based
5 on:

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

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

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

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

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

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

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

24 (e) The district shall hold a public hearing to consider
25 approval of a petition submitted under this section. The district
26 shall require the retail public utility submitting the petition to
27 provide written notice of the hearing not later than the 60th day

1 before the date of the hearing to:

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

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

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

9 (f) The district shall consider a petition at a hearing
10 under this section in the same manner as a rulemaking hearing under
11 Section 36.101.

12 SECTION 3. Section 36.414(a), Water Code, is amended to
13 read as follows:

14 (a) Except as provided by Subsection (b), a district shall
15 process applications from a single applicant under consolidated
16 notice and hearing procedures on written request by the applicant
17 if the district requires a separate permit or permit amendment
18 application for:

19 (1) drilling, equipping, operating, or completing a
20 well or substantially altering the size of a well or well pump under
21 Section 36.113;

22 (2) the spacing of water wells or the production of
23 groundwater under Section 36.116 or 36.1161; or

24 (3) transferring groundwater out of a district under
25 Section 36.122.

26 SECTION 4. Section 36.116(c), Water Code, is repealed.

27 SECTION 5. This Act takes effect September 1, 2019.