

By: Perry, Creighton

S.B. No. 152

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of groundwater conservation districts.

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

SECTION 1. Section 36.066, Water Code, is amended by amending Subsection (g) and adding Subsection (i) to read as follows:

(g) If the district prevails in any suit other than a suit in which it voluntarily intervenes, the district may seek and the court may ~~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 district before the court. The amount of the attorney's fees shall be fixed by the court.

(i) Notwithstanding Section 36.052(a), Subsections (g) and (h) of this section prevail over any other special law inconsistent with those subsections unless the other law prohibits an award of attorney's fees or costs.

SECTION 2. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1025 to read as follows:

Sec. 36.1025. PETITION TO CHANGE RULES. (a) A person with a real property interest in groundwater may petition the district where the property that gives rise to the real property interest is located to adopt a rule or modify a rule adopted under this chapter.

(b) The district by rule shall prescribe the form for a

1 petition submitted under this section and the procedure for the  
2 submission, consideration, and disposition of the petition.

3 (c) Not later than the 90th day after the date the district  
4 receives the petition, the district shall:

5 (1) deny the petition and provide an explanation for  
6 the denial; or

7 (2) engage in rulemaking consistent with the granted  
8 petition.

9 (d) Nothing in this section may be construed to create a  
10 private cause of action for a decision to accept or deny a petition  
11 filed under this section.

12 SECTION 3. Section 36.1071, Water Code, is amended by  
13 amending Subsection (b) and adding Subsections (b-1) and (b-2) to  
14 read as follows:

15 (b) The management plan, or any amendments to the plan,  
16 shall:

17 (1) be developed using the district's best available  
18 data and forwarded to the regional water planning group for use in  
19 their planning process; and

20 (2) include the:

21 (A) most recently approved desired future  
22 conditions adopted under Section 36.108; and

23 (B) amount of modeled available groundwater  
24 corresponding to the most recently approved desired future  
25 conditions.

26 (b-1) A district shall amend a management plan before the  
27 second anniversary of the adoption of desired future conditions

1 included under Subsection (b).

2 (b-2) If a petition challenging the reasonableness of a  
3 desired future condition is filed under Section 36.1083(b), the  
4 executive administrator shall consider the management plan  
5 administratively complete if the district includes:

6 (1) the most recently approved desired future  
7 conditions adopted under Section 36.108;

8 (2) the amount of modeled available groundwater  
9 corresponding to the desired future conditions;

10 (3) a statement of the status of the petition  
11 challenging the reasonableness of a desired future condition; and

12 (4) the information required by Subsections (a) and  
13 (e).

14 SECTION 4. Subchapter D, Chapter 36, Water Code, is amended  
15 by adding Section 36.1141 to read as follows:

16 Sec. 36.1141. NOTICE REQUIRED FOR APPLICATION FOR PERMIT OR  
17 PERMIT AMENDMENT. (a) Except as provided by Subsection (b), a  
18 district that has adopted rules regulating the spacing of wells  
19 under Section 36.116(a)(1) to require wells to be spaced a certain  
20 distance from other wells shall adopt rules requiring that notice  
21 of an application for a permit or permit amendment to drill a well  
22 or increase the production capacity of an existing well be provided  
23 to each landowner whose:

24 (1) land is located wholly or partly within the  
25 spacing distances from other wells under the spacing rules of the  
26 district; and

27 (2) right to obtain a permit or permit amendment for a

1 well of a certain size or location under the spacing rules of the  
2 district will be affected if the district approves the application.

3 (b) Notice is not required under Subsection (a):

4 (1) for a replacement well to be drilled at or near the  
5 location of the well which it is intended to replace that has an  
6 equal or lesser production capacity than the well which it is  
7 intended to replace as determined by the rules of the district;

8 (2) for an emergency well necessary to mitigate a loss  
9 of production capacity of an existing well as determined by the  
10 rules of the district;

11 (3) if the notice is to be provided to the lessors of  
12 the right to produce groundwater from a property where the  
13 applicant for the permit or permit amendment is the lessee; or

14 (4) if the district:

15 (A) posts in a place readily accessible to the  
16 public at the district's main office a list of the applications  
17 described by Subsection (a) that includes the name of the applicant  
18 and address or approximate location of the well or proposed well;  
19 and

20 (B) posts on the home page of the district's  
21 Internet website, if the district operates an Internet website:

22 (i) a list described by Paragraph (A); or

23 (ii) a link to a web application that  
24 includes the information included on a list described by Paragraph  
25 (A).

26 SECTION 5. Section 36.066, Water Code, as amended by this  
27 Act, applies only to a suit involving a groundwater conservation

1 district that is filed on or after the effective date of this Act. A  
2 suit filed before the effective date of this Act is subject to the  
3 law in effect on the date the suit is filed, and that law is  
4 continued in effect for that purpose.

5 SECTION 6. Not later than December 1, 2021, a groundwater  
6 conservation district shall adopt rules to implement Section  
7 36.1025, Water Code, as added by this Act.

8 SECTION 7. The changes in law made by this Act applicable to  
9 a petition filed under Section 36.1083, Water Code, apply only to a  
10 petition filed under that section on or after the effective date of  
11 this Act. A petition filed before the effective date of this Act is  
12 governed by the law in effect on the date the hearing was conducted,  
13 and the former law is continued in effect for that purpose.

14 SECTION 8. Section 36.1141, Water Code, as added by this  
15 Act, applies only to an application for a permit or permit amendment  
16 submitted on or after the effective date of this Act. An  
17 application submitted before the effective date of this Act is  
18 subject to the law in effect on the date the application is  
19 submitted, and that law is continued in effect for that purpose.

20 SECTION 9. This Act takes effect September 1, 2021.