

By: Perry

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 groundwater ownership and rights may petition the district where the property that gives rise to the ownership and rights is located to adopt a rule or modify a rule adopted under this chapter.

(b) A petition submitted under this section must include:

1 (1) an explanation of why the adoption or modification
2 of the rule requested is necessary to be consistent with:

3 (A) ownership and rights recognized under
4 Section 36.002; or

5 (B) conservation or beneficial use of the
6 groundwater resources located in the district, in regard to either:

7 (i) the entire district; or

8 (ii) an aquifer, subdivision of an aquifer,
9 or geologic strata located in the district; and

10 (2) proof that the petitioner has complied with the
11 notice requirements described by Subsection (c).

12 (c) A petitioner under this section must provide written
13 notice of the petition to each person with groundwater ownership
14 and rights in the geographic area that would be affected by the
15 adoption or modification of the rule described in the petition.

16 (d) The district may consider the petition at a public
17 hearing or a regularly scheduled board meeting. If a district meets
18 quarterly, the district must grant or deny the petition not later
19 than the 90th day after the date the district received the petition.

20 (e) After a hearing held under Subsection (d), the district
21 shall grant or deny the petition and may grant or deny the petition
22 wholly or partly. The district shall provide an explanation for the
23 action the district takes on the petition, including a
24 determination about the consistency of the action with the concerns
25 raised by the petitioner's explanation required by Subsection
26 (b)(1).

27 (f) As soon as practicable after a petition or a portion of a

1 petition is granted, the district shall engage in rulemaking
2 consistent with the granted petition or the granted portion of the
3 petition.

4 SECTION 3. Section 36.114(h), Water Code, is amended to
5 read as follows:

6 (h) An application is administratively complete if it
7 contains the information set forth under Sections 36.113 and
8 36.1131 and, if applicable, the applicant has submitted proof of
9 notice required under Section 36.1141. A district shall not require
10 that additional information be included in an application for a
11 determination of administrative completeness.

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

14 Sec. 36.1141. NOTICE REQUIRED FOR APPLICATION FOR PERMIT OR
15 PERMIT AMENDMENT. (a) Not later than the date that a person submits
16 an application for a permit or permit amendment to a district, the
17 person shall provide notice by certified mail, return receipt
18 requested, to each person with a real property interest in the
19 groundwater beneath the land within the space prescribed by the
20 district's spacing rules for the proposed or existing well.

21 (b) The notice required under Subsection (a) must inform the
22 recipient of the notice that the recipient may contest the
23 application for the permit or permit amendment.

24 (c) A person who provides notice under Subsection (a) shall
25 submit proof of providing the notice with the person's application
26 for the permit or permit amendment.

27 SECTION 5. Section 36.415, Water Code, is amended by adding

1 Subsection (c) to read as follows:

2 (c) For purposes of this section, a person entitled to
3 receive notice under Section 36.1141 is considered to have a
4 personal justiciable interest described by Subsection (b).

5 SECTION 6. Section 36.066, Water Code, as amended by this
6 Act, applies only to a suit involving a groundwater conservation
7 district that is filed on or after the effective date of this Act. A
8 suit filed before the effective date of this Act is subject to the
9 law in effect on the date the suit is filed, and that law is
10 continued in effect for that purpose.

11 SECTION 7. Sections 36.114 and 36.415, Water Code, as
12 amended by this Act, and Section 36.1141, Water Code, as added by
13 this Act, apply only to an application for a permit or permit
14 amendment submitted on or after the effective date of this Act. An
15 application submitted before the effective date of this Act is
16 subject to the law in effect on the date the application is
17 submitted, and that law is continued in effect for that purpose.

18 SECTION 8. This Act takes effect September 1, 2021.