

PUBLIC COMMENTS

HB 3972

HOUSE COMMITTEE ON NATURAL RESOURCES

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Hearing Date: April 13, 2021 8:00 AM

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Melanie Pavlas

self - Executive Director of a nonprofit land conservation organization

Lockhart, TX

I'd like to comment on HB3972 because I have serious concerns about it. Requiring a 'surety bond' will discriminate against affected parties that lack financial resources. Landowners should inherently have the right to have their voices heard. • The bill does not address reasonable legal fees by the GCD or permittee. Simply making it too costly to take someone to court is not a just or equitable solution, nor is it "frivolous" to defend one's property rights. The right to defend one's property rights, bestowed by the State of Texas, should never be compromised simply to get a law passed, when there are current laws that address 'frivolous' lawsuits.

Thank you for the opportunity to comment.

Travis Brown

Self, retired from Texas Department of Agriculture

Lexington, TX

I live in Lee County and am opposed to HB 3972. It appears this bill is intended to solve a problem that does not exist: frivolous lawsuits being filed against groundwater conservation districts. In my knowledge and experience with the Lost Pines Groundwater Conservation District, which includes Lee County, the only suits filed against the district were NOT frivolous, but based on sound science and serious concerns by landowners about protecting their groundwater resources. Also, all such suits to my knowledge were filed ONLY after all administrative remedies were exhausted. It's seem clear the real purpose of this bill is to deter landowners and other citizens from exercising their rights to protect their groundwater resources. Please reject this bill. FYI, I am also on the board of directors of the Simsboro Aquifer Water Defense Fund and have been involved in groundwater protection issues in my community for more than 20 years.

Michele G Gangnes, Esq.

Simsboro Aquifer Water Defense Fund, and Self (attorney/landowner)

Lexington, TX

I am unable to attend the April 13 hearing. On behalf of the Simsboro Aquifer Water Defense Fund, of which I am a founding Board member, and for myself as a Texas landowner, we are respectfully AGAINST passage of this bill in its present form. The bill begs characterization beyond what we understood was an attempt to address a "frivolous" lawsuit, raised as a problem by one disgruntled constituent.

With all due respect to the bill's sponsor in the House, for whom our organization has great respect, the bill seems to address a nail in search of a hammer, or a hammer in search of a nail. It is impossible to tell which, because we find this attempt to address Sec. 36.251 lawsuits to be unintelligible in intent or application. It applies a mixture of surety bond requirements for district court lawsuits and requests for (administrative) contested cases that is difficult to decipher and ultimately will be difficult to administer. But the chilling effect it will have is loud and clear.

The bottom line is, in case we misunderstand what problem the bill seeks to address, we are an organization that addresses aquifer protection, and property rights of rural landowners who seek to protect their aquifers and thereby protect their own water supply

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and livelihoods for themselves and their future generations. SAWDF assists rural litigants without means to litigate on their own, but we, and they, do not foster frivolous litigation.

Our rural constituents have conducted bake sales, garage sales and all manner of grassroots fundraising in order to finance both party status in contested cases as well as judicial appeals from administrative proceedings. Our groundwater districts and permit applicants have the luxury of hiring layers of expensive outside counsel, lobbyists and experts. We don't believe we are jumping to conclusions here. HB 3972 will discourage and ultimately banish, "inconvenient" potential litigants like those we assist in accessing a system that is already controlled by districts and non-exempt permit applicants.

Rural landowners who seek to access this system in their search for ways to protect the legacy they wish to leave future generations --- healthy aquifers and the groundwater that serves their legacy property --- must not be barred by legislation that would have that effect, intentionally or unintentionally. The right to defend one's property rights, bestowed by the State of Texas, should never be compromised simply to get a law passed, when there are current laws that address 'frivolous' lawsuits.

At the very least, we would hope to see a substitute bill that addresses and clarifies our concerns by clearly identifying the bill's intent, as well as assuring this committee's constituents that the bill is not another effort to essentially deny rural constituents the opportunity to defend their families.

Thank you for the opportunity to address you in this format.

Doug Marousek

self / retired U.S. Dept. of Agric. statistician

Bastrop, TX

I am OPPOSED to HB 3972 that would require a 'surety bond' in an amount that covers the court costs and legal fees of the Groundwater Conservation District and the permittee be posted by a contestant to a permit. This bill appears to be a special interest attempt to price affected parties out of their right to contest a permit application before a GCD. The ability to defend one's property rights, bestowed by the State of Texas, should not be diminished in this way. Groundwater Conservation Districts are already protected from "frivolous" lawsuits by Texas Water Code §36.066(g) and §36.102 which provide that GCDs can recover attorney's fees, costs for expert witnesses, and other costs incurred by the GCD in any suit to enforce its rules, in which the GCD prevails. Similarly, there are current laws that address 'frivolous' lawsuits to protect applicants. This bill unreasonably raises the cost to landowners to have their voices heard by their GCD.

Andrew Wier

Self and Simboro Aquifer Water Defense Fund

Bastrop, TX

Chairman King,

I wrote to you previously regarding HB 3972. I commented that this bill would make it financially impossible for me and other landowners to contest a groundwater permit that might take the water out of our domestic wells. You mentioned that this was a "work-in-progress" and filed or a constituent that believed they were subject to frivolous lawsuits. I know there are enough lawyers in both the House and Senate that can name the each and every law that targets frivolous lawsuits. This bill seems to be a solution that far exceeds the problem. In addition, when a GCD prevails, they can ask for legal fees and expert witness fees. I just don't see how this bill does anything but discriminate against poor people or poor groups. This is equivalent to "pay to play" and that is unethical. Please, withdraw this bill or let it die a peaceful death by never being considered for passage in your committee. Thank you.