

BILL ANALYSIS

C.S.H.B. 2735
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Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There has been a growing number of third party protestant appeals of permits approved by groundwater districts. Interested parties suggest that this rise is because of a lack of cost sharing by the appellants with regard to the burdens of such an appeal. C.S.H.B. 2735 seeks to address this issue by requiring that a security be posted by a party to a contested case hearing relating to an applicable district decision.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2735 amends the Water Code to require a groundwater conservation district, subject to Civil Practice and Remedies Code provisions relating to the amount of security for a money judgment, by rule to establish the amount of security required to file a suit against the district challenging a rule or order made by the district, including an appeal of a decision on a permit application. The bill caps the required amount of security at \$100,000 but requires the amount of security posted by a party to a contested case hearing, other than by the applicant, for the appeal of a decision granting a permit application or permit amendment application to be increased by an amount sufficient to cover the applicant's cost to defend the granted permit or amendment against the suit and appeal. The bill caps the amount of the increase at \$100,000.

C.S.H.B. 2735 establishes that Civil Practice and Remedies Code provisions relating to the amount of security for a money judgment apply to an appeal from a district court decision affirming a district's rule, order, or decision on a permit application and requires the amount of security for the appeal to equal the sum of the following:

- the amount of any civil penalty awarded;
- interest for the estimated duration of the suit or appeal; and
- attorney's fees and costs required for the district to defend against the suit and appeal.

C.S.H.B. 2735 requires a security under the bill's provisions to be filed into the registry of the district court in which the suit is filed. The bill defines "security" as a bond or deposit posted by a plaintiff before filing suit against a district or, as provided by the Texas Rules of Appellate Procedure, by a judgment debtor to a district to suspend execution of the judgment during appeal of the judgment. The bill's provisions apply only to a suit against a groundwater conservation district that is filed on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

C.S.H.B. 2735 differs from the introduced only by including a Texas Legislative Council draft number in the footer.