

1-1 By: Perry S.B. No. 2026
1-2 (In the Senate - Filed March 7, 2019; March 21, 2019, read
1-3 first time and referred to Committee on Water & Rural Affairs;
1-4 April 24, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 3; April 24, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8 | | | | |
| 1-9 | X | | | |
| 1-10 | X | | | |
| 1-11 | | X | | |
| 1-12 | | X | | |
| 1-13 | X | | | |
| 1-14 | | X | | |
| 1-15 | X | | | |

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 2026 By: Perry

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to regulation of the production of retail public utility
1-20 wells by a groundwater conservation district.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 36.002(d), Water Code, is amended to
1-23 read as follows:

1-24 (d) This section does not:

1-25 (1) prohibit a district from limiting or prohibiting
1-26 the drilling of a well by a landowner for failure or inability to
1-27 comply with minimum well spacing or tract size requirements adopted
1-28 by the district;

1-29 (2) affect the ability of a district to regulate
1-30 groundwater production as authorized under Section 36.113, 36.116,
1-31 36.1161, or 36.122 or otherwise under this chapter or a special law
1-32 governing a district; or

1-33 (3) require that a rule adopted by a district allocate
1-34 to each landowner a proportionate share of available groundwater
1-35 for production from the aquifer based on the number of acres owned
1-36 by the landowner.

1-37 SECTION 2. Subchapter D, Chapter 36, Water Code, is amended
1-38 by adding Section 36.1161 to read as follows:

1-39 Sec. 36.1161. REGULATION OF PRODUCTION BY RETAIL PUBLIC
1-40 UTILITIES. (a) In this section, "retail public utility" has the
1-41 meaning assigned by Section 13.002.

1-42 (b) This section applies only to a district that regulates
1-43 production under Section 36.116 based on tract size or acreage.

1-44 (c) A retail public utility may petition a district to
1-45 authorize the retail public utility to produce groundwater based
1-46 on:

1-47 (1) the aggregate acreage owned or leased by the
1-48 retail public utility; and

1-49 (2) the acreage of the landowners served by the retail
1-50 public utility as provided by Subsection (d).

1-51 (d) A district may only base a retail public utility's
1-52 authorized production amount under this section in a manner
1-53 consistent with district rules and based on acreage of landowners
1-54 served by the retail public utility if:

1-55 (1) the utility has acquired from the landowner a real
1-56 property interest in the groundwater beneath the land; or

1-57 (2) the landowner has provided written permission for
1-58 the retail public utility to exercise the landowner's real property
1-59 interest in the groundwater beneath the landowner's land until the
1-60 landowner:

2-1 (A) drills a well and produces water from the
2-2 land; or
2-3 (B) transfers title to the land or real property
2-4 interest in the groundwater to another person.

2-5 (e) The district shall hold a public hearing to consider
2-6 approval of a petition submitted under this section. The district
2-7 shall require the retail public utility submitting the petition to
2-8 provide written notice of the hearing not later than the 60th day
2-9 before the date of the hearing to:

2-10 (1) the landowners served by the retail public
2-11 utility;

2-12 (2) persons with permitted or registered wells in the
2-13 district; and

2-14 (3) persons not described by Subdivision (1) or (2)
2-15 who have a property interest in groundwater under land that is
2-16 within one mile of the utility's wells in the district.

2-17 (f) The district shall consider a petition at a hearing
2-18 under this section in the same manner as a rulemaking hearing under
2-19 Section 36.101.

2-20 SECTION 3. Section 36.414(a), Water Code, is amended to
2-21 read as follows:

2-22 (a) Except as provided by Subsection (b), a district shall
2-23 process applications from a single applicant under consolidated
2-24 notice and hearing procedures on written request by the applicant
2-25 if the district requires a separate permit or permit amendment
2-26 application for:

2-27 (1) drilling, equipping, operating, or completing a
2-28 well or substantially altering the size of a well or well pump under
2-29 Section 36.113;

2-30 (2) the spacing of water wells or the production of
2-31 groundwater under Section 36.116 or 36.1161; or

2-32 (3) transferring groundwater out of a district under
2-33 Section 36.122.

2-34 SECTION 4. Section 36.116(c), Water Code, is repealed.

2-35 SECTION 5. This Act takes effect September 1, 2019.

2-36 * * * * *