

1-1 By: Perry, Flores S.B. No. 156  
 1-2 (In the Senate - Filed November 14, 2022; February 15, 2023,  
 1-3 read first time and referred to Committee on Water, Agriculture &  
 1-4 Rural Affairs; March 14, 2023, reported favorably by the following  
 1-5 vote: Yeas 8, Nays 0; March 14, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			

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

1-19 relating to the regulation of groundwater conservation districts.  
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-21 SECTION 1. Section 36.066, Water Code, is amended by  
 1-22 amending Subsection (g) and adding Subsection (i) to read as  
 1-23 follows:  
 1-24 (g) If the district prevails in any suit other than a suit in  
 1-25 which it voluntarily intervenes, the district may seek and the  
 1-26 court may ~~shall~~ grant, in the interests of justice and as provided  
 1-27 by Subsection (h), in the same action, recovery for attorney's  
 1-28 fees, costs for expert witnesses, and other costs incurred by the  
 1-29 district before the court. The amount of the attorney's fees shall  
 1-30 be fixed by the court.  
 1-31 (i) Notwithstanding Section 36.052(a), Subsections (g) and  
 1-32 (h) of this section prevail over any other special law inconsistent  
 1-33 with those subsections unless the other law prohibits an award of  
 1-34 attorney's fees or costs.  
 1-35 SECTION 2. Subchapter D, Chapter 36, Water Code, is amended  
 1-36 by adding Section 36.1025 to read as follows:  
 1-37 Sec. 36.1025. PETITION TO CHANGE RULES. (a) A person with  
 1-38 a real property interest in groundwater may petition the district  
 1-39 where the property that gives rise to the real property interest is  
 1-40 located to adopt a rule or modify a rule adopted under this chapter.  
 1-41 (b) The district by rule shall prescribe the form for a  
 1-42 petition submitted under this section and the procedure for the  
 1-43 submission, consideration, and disposition of the petition.  
 1-44 (c) Not later than the 90th day after the date the district  
 1-45 receives the petition, the district shall:  
 1-46 (1) deny the petition and provide an explanation for  
 1-47 the denial; or  
 1-48 (2) engage in rulemaking consistent with the granted  
 1-49 petition.  
 1-50 (d) Nothing in this section may be construed to create a  
 1-51 private cause of action for a decision to accept or deny a petition  
 1-52 filed under this section.  
 1-53 SECTION 3. Section 36.1071, Water Code, is amended by  
 1-54 amending Subsection (b) and adding Subsections (b-1) and (b-2) to  
 1-55 read as follows:  
 1-56 (b) The management plan, or any amendments to the plan,  
 1-57 shall:  
 1-58 (1) be developed using the district's best available  
 1-59 data and forwarded to the regional water planning group for use in  
 1-60 their planning process; and  
 1-61 (2) include the:

2-1 (A) most recently approved desired future  
 2-2 conditions adopted under Section 36.108; and

2-3 (B) amount of modeled available groundwater  
 2-4 corresponding to the most recently approved desired future  
 2-5 conditions.

2-6 (b-1) A district shall amend a management plan before the  
 2-7 second anniversary of the adoption of desired future conditions  
 2-8 included under Subsection (b).

2-9 (b-2) If a petition challenging the reasonableness of a  
 2-10 desired future condition is filed under Section 36.1083(b), the  
 2-11 executive administrator shall consider the management plan  
 2-12 administratively complete if the district includes:

2-13 (1) the most recently approved desired future  
 2-14 conditions adopted under Section 36.108;

2-15 (2) the amount of modeled available groundwater  
 2-16 corresponding to the desired future conditions;

2-17 (3) a statement of the status of the petition  
 2-18 challenging the reasonableness of a desired future condition; and

2-19 (4) the information required by Subsections (a) and  
 2-20 (e).

2-21 SECTION 4. Subchapter D, Chapter 36, Water Code, is amended  
 2-22 by adding Section 36.1141 to read as follows:

2-23 Sec. 36.1141. NOTICE REQUIRED FOR APPLICATION FOR PERMIT OR  
 2-24 PERMIT AMENDMENT. (a) Except as provided by Subsection (b), a  
 2-25 district that has adopted rules regulating the spacing of wells  
 2-26 under Section 36.116(a)(1) to require wells to be spaced a certain  
 2-27 distance from other wells shall adopt rules requiring that notice  
 2-28 of an application for a permit or permit amendment to drill a well  
 2-29 or increase the production capacity of an existing well be provided  
 2-30 to each landowner whose:

2-31 (1) land is located wholly or partly within the  
 2-32 spacing distances from other wells under the spacing rules of the  
 2-33 district; and

2-34 (2) right to obtain a permit or permit amendment for a  
 2-35 well of a certain size or location under the spacing rules of the  
 2-36 district will be affected if the district approves the application.

2-37 (b) Notice is not required under Subsection (a):

2-38 (1) for a replacement well to be drilled at or near the  
 2-39 location of the well which it is intended to replace that has an  
 2-40 equal or lesser production capacity than the well which it is  
 2-41 intended to replace as determined by the rules of the district;

2-42 (2) for an emergency well necessary to mitigate a loss  
 2-43 of production capacity of an existing well as determined by the  
 2-44 rules of the district;

2-45 (3) if the notice is to be provided to the lessors of  
 2-46 the right to produce groundwater from a property where the  
 2-47 applicant for the permit or permit amendment is the lessee; or

2-48 (4) if the district:

2-49 (A) posts in a place readily accessible to the  
 2-50 public at the district's main office a list of the applications  
 2-51 described by Subsection (a) that includes the name of the applicant  
 2-52 and address or approximate location of the well or proposed well;  
 2-53 and

2-54 (B) posts on the home page of the district's  
 2-55 Internet website, if the district operates an Internet website:

2-56 (i) a list described by Paragraph (A); or

2-57 (ii) a link to a web application that  
 2-58 includes the information included on a list described by Paragraph  
 2-59 (A).

2-60 SECTION 5. Section 36.066, Water Code, as amended by this  
 2-61 Act, applies only to a suit involving a groundwater conservation  
 2-62 district that is filed on or after the effective date of this Act. A  
 2-63 suit filed before the effective date of this Act is subject to the  
 2-64 law in effect on the date the suit is filed, and that law is  
 2-65 continued in effect for that purpose.

2-66 SECTION 6. Not later than December 1, 2023, a groundwater  
 2-67 conservation district shall adopt rules to implement Section  
 2-68 36.1025, Water Code, as added by this Act.

2-69 SECTION 7. The changes in law made by this Act applicable to

3-1 a petition filed under Section 36.1083, Water Code, apply only to a  
3-2 petition filed under that section on or after the effective date of  
3-3 this Act. A petition filed before the effective date of this Act is  
3-4 governed by the law in effect on the date the hearing was conducted,  
3-5 and the former law is continued in effect for that purpose.

3-6 SECTION 8. Section 36.1141, Water Code, as added by this  
3-7 Act, applies only to an application for a permit or permit amendment  
3-8 submitted on or after the effective date of this Act. An application  
3-9 submitted before the effective date of this Act is subject to the  
3-10 law in effect on the date the application is submitted, and that law  
3-11 is continued in effect for that purpose.

3-12 SECTION 9. This Act takes effect September 1, 2023.

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