

1-1 By: Springer S.B. No. 638  
1-2 (In the Senate - Filed January 26, 2023; February 17, 2023,  
1-3 read first time and referred to Committee on Water, Agriculture &  
1-4 Rural Affairs; April 17, 2023, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
1-6 April 17, 2023, 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 | X   |     |        |     |
| 1-17 | X   |     |        |     |

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 638 By: Springer

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the procedures for acting on a permit or permit  
1-22 amendment application by a groundwater conservation district and  
1-23 the disqualification of board members of groundwater conservation  
1-24 districts.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 36.053, Water Code, is amended to read as  
1-27 follows:

1-28 Sec. 36.053. QUORUM. (a) Except as provided by Subsection  
1-29 (b), a [A] majority of the membership of the board constitutes a  
1-30 quorum for any meeting, and a concurrence of a majority of the  
1-31 entire membership of the board is sufficient for transacting any  
1-32 business of the district.

1-33 (b) For the purposes of making a final decision on a permit  
1-34 or permit amendment application by a board composed of 10 or more  
1-35 directors, a concurrence of a majority of the directors eligible to  
1-36 vote is sufficient for taking an action on the application.

1-37 SECTION 2. Section 36.058, Water Code, is amended to read as  
1-38 follows:

1-39 Sec. 36.058. CONFLICTS OF INTEREST. (a) A director of a  
1-40 district is subject to the provisions of Chapters 171 and 176, Local  
1-41 Government Code, relating to the regulation of conflicts of  
1-42 officers of local governments.

1-43 (b) If a director is required to file an affidavit under  
1-44 Section 171.004(a), Local Government Code, the director may not:

1-45 (1) attend a closed meeting related to the matter for  
1-46 which the director is required to file the affidavit; and

1-47 (2) vote on a matter for which the director is required  
1-48 to file the affidavit unless a majority of the directors are also  
1-49 required to file an affidavit related to a similar interest on the  
1-50 same official action.

1-51 SECTION 3. Section 36.409, Water Code, is amended to read as  
1-52 follows:

1-53 Sec. 36.409. CONTINUANCE. (a) The presiding officer may  
1-54 continue a hearing from time to time and from place to place without  
1-55 providing notice under Section 36.404.

1-56 (b) If the presiding officer continues a hearing without  
1-57 announcing at the hearing the time, date, and location of the  
1-58 continued hearing, the presiding officer must provide notice of the  
1-59 continued hearing by regular mail to the parties.

1-60 (c) A continuance may not exceed the time limit for the

2-1 issuance of a final decision under Section 36.4165.

2-2 SECTION 4. Section 36.411, Water Code, is amended to read as  
2-3 follows:

2-4 Sec. 36.411. BOARD ACTION. (a) The board shall act on a  
2-5 permit or permit amendment application not later than the 60th day  
2-6 after the date the final hearing on the application is concluded.

2-7 (b) The board shall ensure a decision on a permit or permit  
2-8 amendment application is timely rendered in accordance with the  
2-9 provisions set forth in this chapter.

2-10 SECTION 5. The heading to Section 36.412, Water Code, is  
2-11 amended to read as follows:

2-12 Sec. 36.412. REQUEST FOR REHEARING OR FINDINGS OF FACT AND  
2-13 CONCLUSIONS OF LAW.

2-14 SECTION 6. Section 36.412, Water Code, is amended by  
2-15 amending Subsections (a) and (b) and adding Subsections (a-1),  
2-16 (b-1), and (f) to read as follows:

2-17 (a) An applicant in a contested or uncontested hearing on an  
2-18 application or a party to a contested hearing may administratively  
2-19 appeal a decision of the board on a permit or permit amendment  
2-20 application by making a request in writing to the board.

2-21 (a-1) A party seeking to appeal a decision by the board must  
2-22 request [by requesting] written findings of fact and conclusions of  
2-23 law not later than the 20th day after the date of the board's  
2-24 decision unless the board issued findings of fact and conclusions  
2-25 of law as part of the final decision.

2-26 (b) On receipt of a timely written request under Subsection  
2-27 (a-1), the board shall make written findings of fact and  
2-28 conclusions of law regarding a decision of the board on a permit or  
2-29 permit amendment application. The board shall provide certified  
2-30 copies of the findings of fact and conclusions of law to the person  
2-31 who requested them, and to each designated party, not later than the  
2-32 35th day after the date the board receives the request.

2-33 (b-1) A party to a contested hearing may request a rehearing  
2-34 not later than the 20th day after the date the board issues the  
2-35 findings of fact and conclusions of law.

2-36 (f) The board shall consolidate requests for rehearing  
2-37 filed by multiple parties to the contested case hearing, but only  
2-38 one rehearing may be considered per matter.

2-39 SECTION 7. Section 36.4165, Water Code, is amended by  
2-40 adding Subsections (c), (d), (e), (f), and (g) to read as follows:

2-41 (c) A final decision issued by the board under this section  
2-42 must be in writing and must either adopt the proposed findings of  
2-43 fact and conclusions of law as proposed by the administrative law  
2-44 judge or include revised findings of fact and conclusions of law  
2-45 consistent with Subsection (b).

2-46 (d) Notwithstanding any other law, a board shall issue a  
2-47 final decision under this section not later than the 180th day after  
2-48 the date of receipt of the final proposal for decision from the  
2-49 State Office of Administrative Hearings. The deadline may be  
2-50 extended if all parties agree to the extension.

2-51 (e) Notwithstanding any other law, if a motion for rehearing  
2-52 is filed and granted by a board under Section 36.412, the board  
2-53 shall make a final decision on the application not later than the  
2-54 90th day after the date of the decision by the board that was  
2-55 subject to the motion for rehearing.

2-56 (f) A board is considered to have adopted a final proposal  
2-57 for decision of the administrative law judge as a final order on the  
2-58 181st day after the date the administrative law judge issued the  
2-59 final proposal for decision if the board has not issued a final  
2-60 decision by:

2-61 (1) adopting the findings of fact and conclusions of  
2-62 law as proposed by the administrative law judge; or

2-63 (2) issuing revised findings of fact and conclusions  
2-64 of law as provided by Subsection (b).

2-65 (g) A proposal for decision adopted under Subsection (f) is  
2-66 final, immediately appealable, and not subject to a request for  
2-67 rehearing.

2-68 SECTION 8. The changes in law made by this Act apply to an  
2-69 application for a permit or permit amendment submitted on or after

3-1 the effective date of this Act. An application for a permit or  
3-2 permit amendment submitted before the effective date of this Act is  
3-3 governed by the law in effect at the time the application was  
3-4 submitted, and the former law is continued in effect for that  
3-5 purpose.  
3-6 SECTION 9. This Act takes effect immediately if it receives  
3-7 a vote of two-thirds of all the members elected to each house, as  
3-8 provided by Section 39, Article III, Texas Constitution. If this  
3-9 Act does not receive the vote necessary for immediate effect, this  
3-10 Act takes effect September 1, 2023.

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