

Item 6 – Update to TWC Chapter 36 following the 85th Legislative Session

Following are the changes to Chapter 36 as a result of legislation passed during the 8^{5th} Legislative Session. Monique has taken the enacted legislation and inserted them into the appropriate sections of the water code.

We will discuss the impact of the changes during the board meeting.

(j) A district may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rules and may appoint advisory committees of experts, interested persons, or public representatives to advise the district about contemplated rules.

(k) Failure to provide notice under Subsection (d)(4) does not invalidate an action taken by the district at a rulemaking hearing.

(l) Subsections (b)-(k) do not apply to the Edwards Aquifer Authority.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 966, Sec. 2.44, eff. Sept. 1, 2001. Amended by: Acts 2005, 79th Leg., Ch. 970 (H.B. 1763), Sec. 3, eff. September 1, 2005. Acts 2005, 79th Leg., Ch. 1116 (H.B. 2423), Sec. 3, eff. September 1, 2005. Acts 2011, 82nd Leg., R.S., Ch. 1207 (S.B. 332), Sec. 2, eff. September 1, 2011.

Sec. 36.1011. EMERGENCY RULES. (a) A board may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and hearing, if the board:

(1) finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and

(2) prepares a written statement of the reasons for its finding under Subdivision (1).

(b) Except as provided by Subsection (c), a rule adopted under this section may not be effective for longer than 90 days.

(c) If notice of a hearing on the final rule is given not later than the 90th day after the date the rule is adopted, the rule is effective for an additional 90 days.

(d) A rule adopted under this section must be adopted at a meeting held as provided by Chapter 551, Government Code.

(e) This section does not apply to the Edwards Aquifer Authority.

Added by Acts 2005, 79th Leg., Ch. 970 (H.B. 1763), Sec. 4, eff. September 1, 2005.

Sec. 36.1015. RULES FOR PERMITS IN BRACKISH GROUNDWATER PRODUCTION ZONES. (a) In this section:

(1) "Designated brackish groundwater production zone" means an aquifer, subdivision of an aquifer, or geologic stratum designated under Section 16.060(b)(5).

(2) "Development board" means the Texas Water Development Board.

(3) "Gulf Coast Aquifer" means the system of hydrogeologic units that run along the Gulf Coast from the Sabine River to the Rio Grande, including:

(A) the Catahoula confining system, including the Frio Formation, the Anahuac Formation, and the Catahoula Tuff or Sandstone;

(B) the Jasper Aquifer, including the Oakville Sandstone and Fleming

Formation:

(C) the Burkeville confining system separating the Jasper Aquifer from the Evangeline Aquifer;

(D) the Evangeline Aquifer, including the Goliad Sand; and

(E) the Chicot Aquifer, including the Willis Sand, the Bentley and Montgomery Formations, the Beaumont Clay, and alluvial deposits at the surface.

(b) A district located over any part of a designated brackish groundwater production zone may adopt rules to govern the issuance of permits for the completion and operation of a well for the withdrawal of brackish groundwater from a designated brackish groundwater production zone and shall adopt rules described by this subsection if the district receives a petition from a person with a legally defined interest in groundwater in the district. The district must adopt the rules not later than the 180th day after the date the district receives the petition. Rules adopted under this subsection apply only to a permit for a project described by Subsection (c).

(c) A person may obtain a permit under rules adopted under this section for the following projects:

(1) a municipal project designed to treat brackish groundwater to drinking water standards for the purpose of providing a public source of drinking water; and

(2) an electric generation project to treat brackish groundwater to water quality standards sufficient for the project needs.

(d) The rules adopted must:

(1) provide for processing an application for a brackish groundwater production zone operating permit in the same manner as an application for an operating permit for a fresh groundwater well, except as provided by this section;

(2) allow withdrawals and rates of withdrawal of brackish groundwater from a designated brackish groundwater production zone not to exceed and consistent with the withdrawal amounts identified in Section 16.060(e);

(3) provide for a minimum term of 30 years for a permit issued for a well that produces brackish groundwater from a designated brackish groundwater production zone;

(4) require implementation of a monitoring system recommended by the development board to monitor water levels and water quality in the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum in which the designated brackish groundwater production zone is located;

(5) for a project located in a designated brackish groundwater production zone in the Gulf Coast Aquifer, require reasonable monitoring by the district of land elevations to determine if production from the project is causing or is likely to cause subsidence during the permit term;

(6) require from the holder of a permit issued under rules adopted under this section annual reports that must include:

(A) the amount of brackish groundwater withdrawn;

(B) the average monthly water quality of the brackish groundwater withdrawn and in the monitoring wells; and

(C) aquifer levels in both the designated brackish groundwater production zone and in any aquifer, subdivision of an aquifer, or geologic stratum for which the permit requires monitoring; and

(7) be consistent with and not impair property rights described by Sections 36.002(a) and (b).

(e) An application for a brackish groundwater production zone operating permit must include:

(1) the proposed well field design compared to the designated brackish groundwater production zone;

(2) the requested maximum groundwater withdrawal rate for the proposed project;

(3) the number and location of monitoring wells needed to determine the effects of the proposed project on water levels and water quality in the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum in which the designated brackish groundwater production zone is located; and

(4) a report that includes:

(A) a simulation of the projected effects of the proposed production on water levels and water quality in the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum in which the designated brackish groundwater production zone is located;

(B) a description of the model used for the simulation described by Paragraph (A); and

(C) sufficient information for a technical reviewer to understand the parameters and assumptions used in the model described by Paragraph (B).

(f) The district shall submit the application to the development board and the development board shall conduct a technical review of the application. The development board shall submit a report of the review of the application that includes:

(1) findings regarding the compatibility of the proposed well field design with the designated brackish groundwater production zone; and

(2) recommendations for the monitoring system described by Subsection (d)(4).

(g) The district may not schedule a hearing on the application until the district receives the report from the development board described by Subsection (f).

(h) The district shall provide the reports required under Subsection (d)(6) to the development board. Not later than the 120th day after the date the development board receives a request from the district, the development board shall investigate and issue a report on whether brackish groundwater production under the project that is the subject of the report from the designated brackish groundwater production zone is projected to cause:

(1) significant aquifer level declines in the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum that were not anticipated by the development board in the

designation of the zone;

(2) negative effects on quality of water in an aquifer, subdivision of an aquifer, or geologic stratum; or

(3) for a project located in a designated brackish groundwater production zone in the Gulf Coast Aquifer, subsidence during the permit term.

(i) After receiving from the development board a report issued under Subsection (h) and after notice and hearing subject to Subchapter M, the district may:

(1) amend the applicable permit to establish a production limit necessary to mitigate any negative effects identified by the report;

(2) approve a mitigation plan that alleviates any negative effects identified by the report; or

(3) both amend the permit to establish a production limit and approve a mitigation plan.

Added by Acts 2017, 85th Leg., R.S., Ch. ___ (H.B.2377), Sec. 1, eff. September 1, 2017.

Sec. 36.102. ENFORCEMENT OF RULES. (a) A district may enforce this chapter and its rules against any person by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

(b) The board by rule may set reasonable civil penalties against any person for breach of any rule of the district not to exceed \$10,000 per day per violation, and each day of a continuing violation constitutes a separate violation.

(c) A penalty under this section is in addition to any other penalty provided by the law of this state and may be enforced against any person by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located.

(d) If the district prevails in any suit to enforce its rules, the district may seek and the court shall grant against any person, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.

(e) In an enforcement action by a district against any person that is a governmental entity for a violation of district rules, the limits on the amount of fees, costs, and penalties that a district may impose under Section 36.122, 36.205, or this section, or under a special law governing a district operating under this chapter, constitute a limit of liability of the governmental entity for the violation. This subsection shall not be construed to prohibit the recovery by a district of fees and costs under Subsection (d) in an action against any person that is a governmental entity.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 548, Sec. 2, eff. June 11, 2001; Acts 2001, 77th Leg., ch. 966, Sec. 2.45, eff. Sept. 1, 2001. Amended by: Acts 2009, 81st Leg., R.S., Ch. 425 (H.B. 2063), Sec. 1, eff. June 19, 2009.

determines that resolution of the conflict requires a revision of the approved management plan, the development board shall provide information to the district. The district shall prepare any revisions to the plan based on the information provided by the development board and shall hold, after notice, at least one public hearing at some central location within the district. The district shall consider all public and development board comments, prepare, revise, and adopt its management plan, and submit the revised management plan to the development board for approval. On the request of the district or the regional water planning group, the development board shall include discussion of the conflict and its resolution in the state water plan that the development board provides to the governor, the lieutenant governor, and the speaker of the house of representatives under Section 16.051(e). If the groundwater conservation district disagrees with the decision of the development board under this subsection, the district may appeal the decision to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 4.28, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 966, Sec. 2.47, eff. Sept. 1, 2001. Amended by: Acts 2005, 79th Leg., Ch. 970 (H.B. 1763), Sec. 6, eff. September 1, 2005. Acts 2011, 82nd Leg., R.S., Ch. 17 (S.B. 727), Sec. 2, eff. April 29, 2011.

Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment to the management plan shall be submitted to the executive administrator within 60 days following adoption of the amendment by the district's board. The executive administrator shall review and approve any amendment which substantially affects the management plan in accordance with the procedures established under Section 36.1072.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 4.28, eff. Sept. 1, 1997. Amended by: Acts 2005, 79th Leg., Ch. 970 (H.B. 1763), Sec. 7, eff. September 1, 2005.

Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) In this section:

- (1) "Development board" means the Texas Water Development Board.
- (2) "District representative" means the presiding officer or the presiding officer's designee for any district located wholly or partly in the management area.

(b) If two or more districts are located within the boundaries of the same management area, each district shall forward a copy of that district's new or revised management plan to the other districts in the management area. The boards of the districts shall consider the plans individually and shall compare them to other management plans then in force in the management area.

(c) The district representatives shall meet at least annually to conduct joint planning with the other districts in the management area and to review the management plans, the accomplishments of the management area, and proposals to adopt new or amend existing desired future conditions. In reviewing the management plans, the districts shall consider:

- (1) the goals of each management plan and its impact on planning throughout the management area;
- (2) the effectiveness of the measures established by each district's management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally;

(3) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area; and

(4) the degree to which each management plan achieves the desired future conditions established during the joint planning process.

(d) Not later than May 1, 2021 [~~September 1, 2010~~], and every five years thereafter, the districts shall consider groundwater availability models and other data or information for the management area and shall propose for adoption desired future conditions for the relevant aquifers within the management area. Before voting on the proposed desired future conditions of the aquifers under Subsection (d-2), the districts shall consider:

(1) aquifer uses or conditions within the management area, including conditions that differ substantially from one geographic area to another;

(2) the water supply needs and water management strategies included in the state water plan;

(3) hydrological conditions, including for each aquifer in the management area the total estimated recoverable storage as provided by the executive administrator, and the average annual recharge, inflows, and discharge;

(4) other environmental impacts, including impacts on spring flow and other interactions between groundwater and surface water;

(5) the impact on subsidence;

(6) socioeconomic impacts reasonably expected to occur;

(7) the impact on the interests and rights in private property, including ownership and the rights of management area landowners and their lessees and assigns in groundwater as recognized under Section 36.002;

(8) the feasibility of achieving the desired future condition; and

(9) any other information relevant to the specific desired future conditions.

(d-1) After considering and documenting the factors described by Subsection (d) and other relevant scientific and hydrogeological data, the districts may establish different desired future conditions for:

(1) each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the management area; or

(2) each geographic area overlying an aquifer in whole or in part or subdivision of an aquifer within the boundaries of the management area.

(d-2) The desired future conditions proposed under Subsection (d) must provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the management area. This subsection does not prohibit the establishment of desired future conditions that provide for the reasonable long-term management of groundwater resources consistent with the management goals under Section 36.1071(a). The desired future conditions proposed under Subsection (d) must be approved by a two-thirds vote of all the district

representatives for distribution to the districts in the management area. A period of not less than 90 days for public comments begins on the day the proposed desired future conditions are mailed to the districts. During the public comment period and after posting notice as required by Section 36.063, each district shall hold a public hearing on any proposed desired future conditions relevant to that district. During the public comment period, the district shall make available in its office a copy of the proposed desired future conditions and any supporting materials, such as the documentation of factors considered under Subsection (d) and groundwater availability model run results. After the close of the public comment period [hearing], the district shall compile for consideration at the next joint planning meeting a summary of relevant comments received, any suggested revisions to the proposed desired future conditions, and the basis for the revisions.

(d-3) After ~~[the earlier of the date on which]~~ all the districts have submitted their district summaries ~~[or the expiration of the public comment period under Subsection (d-2)]~~, the district representatives shall reconvene to review the reports, consider any district's suggested revisions to the proposed desired future conditions, and finally adopt the desired future conditions for the management area. The desired future conditions must be approved by [adopted as] a resolution adopted by a two-thirds vote of all the district representatives not later than January 5, 2022. Subsequent desired future conditions must be proposed and finally adopted by the district representatives before the end of each successive five-year period after that date. The district representatives shall produce a desired future conditions explanatory report for the management area and submit to the development board and each district in the management area proof that notice was posted for the joint planning meeting, a copy of the resolution, and a copy of the explanatory report. The report must:

- (1) identify each desired future condition;
- (2) provide the policy and technical justifications for each desired future condition;
- (3) include documentation that the factors under Subsection (d) were considered by the districts and a discussion of how the adopted desired future conditions impact each factor;
- (4) list other desired future condition options considered, if any, and the reasons why those options were not adopted; and
- (5) discuss reasons why recommendations made by advisory committees and relevant public comments received by the districts were or were not incorporated into the desired future conditions.

(d-4) After [As soon as possible after] a district receives notification from the Texas Water Development Board that the desired future conditions resolution and explanatory report under Subsection (d-3) are administratively complete, the district shall adopt the applicable desired future conditions in the resolution and report ~~[that apply to the district]~~.

~~(d-5) Notwithstanding Subsection (d) and regardless of the date on which a proposal may have been voted on before September 1, 2013, a proposal for the adoption of desired future conditions for the relevant aquifers within a management area is not required before May 1, 2016. This subsection does not prevent districts in a management area from voting on a proposal for the adoption of desired future conditions for the relevant aquifers within their management area before May 1, 2016. This subsection expires January 1, 2018.~~

(e) Except as provided by this section, a joint meeting under this section must be held in accordance with Chapter 551, Government Code. Each district shall comply with Chapter 552, Government Code. The district representatives may elect one district to be responsible for providing the notice of a joint meeting that this section would otherwise require of each district in the management area. Notice of a joint meeting must be provided at least 10 days before the date of the meeting by:

- (1) providing notice to the secretary of state;
- (2) providing notice to the county clerk of each county located wholly or partly in a district that is located wholly or partly in the management area; and
- (3) posting notice at a place readily accessible to the public at the district office of each district located wholly or partly in the management area.

(e-1) The secretary of state and the county clerk of each county described by Subsection (e) shall post notice of the meeting in the manner provided by Section 551.053, Government Code.

(e-2) Notice of a joint meeting must include:

- (1) the date, time, and location of the meeting;
- (2) a summary of any action proposed to be taken;
- (3) the name of each district located wholly or partly in the management area; and
- (4) the name, telephone number, and address of one or more persons to whom questions, requests for additional information, or comments may be submitted.

(e-3) The failure or refusal of one or more districts to post notice for a joint meeting under Subsection (e)(3) does not invalidate an action taken at the joint meeting.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 4.29, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 519, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 966, Sec. 2.48, eff. Sept. 1, 2001. Amended by: Acts 2005, 79th Leg., Ch. 970 (H.B. 1763), Sec. 8, eff. September 1, 2005. Acts 2011, 82nd Leg., R.S., Ch. 18 (S.B. 737), Sec. 3, eff. September 1, 2011. Acts 2011, 82nd Leg., R.S., Ch. 1233 (S.B. 660), Sec. 17, eff. September 1, 2011. Acts 2013, 83rd Leg., R.S., Ch. 785 (S.B. 1282), Sec. 1, eff. September 1, 2013. Acts 2015, 84th Leg., R.S., Ch. 993 (H.B. 200), Sec. 3, eff. September 1, 2015. **Acts 2017, 85th Leg., R.S., Ch. ___ (H.B. 2215), Sec. 2, 3, eff. immediately.**

~~**Sec. 36.1081. TECHNICAL STAFF AND SUBCOMMITTEES FOR JOINT PLANNING.** (a) On request, the commission and the Texas Water Development Board shall make technical staff available to serve in a nonvoting advisory capacity to assist with the development of desired future conditions during the joint planning process under Section 36.108.~~

~~(b) During the joint planning process under Section 36.108, the district representatives may appoint and convene nonvoting advisory subcommittees who represent social, governmental, environmental, or economic interests to assist in the development of desired future conditions.~~

~~Added by Acts 2011, 82nd Leg., R.S., Ch. 1233 (S.B. 660), Sec. 17, eff. September 1, 2011.~~

groundwater available, including aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1233 (S.B. 660), Sec. 17, eff. September 1, 2011.

~~**Sec. 36.109. COLLECTION OF INFORMATION.** A district may collect any information the board deems necessary, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir. At the request of the executive administrator, the district shall provide any data collected by the district in a format acceptable to the executive administrator.~~

~~Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by: Acts 2005, 79th Leg., Ch. 970 (H.B. 1763), Sec. 9, eff. September 1, 2005.~~

~~**Sec. 36.110. PUBLICATION OF PLANS AND INFORMATION.** A district may publish its plans and the information it develops, bring them to the attention of the users of groundwater in the district, and encourage the users to adopt and use them.~~

~~Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.~~

~~**Sec. 36.111. RECORDS AND REPORTS.** (a) The district may require that records be kept and reports be made of the drilling, equipping, and completing of water wells and of the production and use of groundwater.~~

~~(b) In implementing Subsection (a), a district may adopt rules that require an owner or operator of a water well that is required to be registered with or permitted by the district, except for the owner or operator of a well that is exempt from permit requirements under Section 36.117(b)(1), to report groundwater withdrawals using reasonable and appropriate reporting methods and frequency.~~

~~Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by: Acts 2007, 80th Leg., R.S., Ch. 523 (S.B. 714), Sec. 1, eff. September 1, 2007.~~

~~**Sec. 36.112. DRILLERS' LOGS.** A district shall require that accurate drillers' logs be kept of water wells and that copies of drillers' logs and electric logs be filed with the district.~~

~~Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.~~

Sec. 36.113. PERMITS FOR WELLS; PERMIT AMENDMENTS. (a) Except as provided by Section 36.117, a district shall require a permit for the drilling, equipping, operating, or completing of wells or for substantially altering the size of wells or well pumps. A district may require that a change in the withdrawal or use of groundwater during the term of a permit issued by the district may not be made unless the district has first approved a permit amendment authorizing the change.

(a-1) A district may not require a permit or a permit amendment for maintenance or repair of a well if the maintenance or repair does not increase the production capabilities of the well to more than its authorized or permitted production rate.

(b) A district shall require that an application for a permit or a permit amendment be in writing and sworn to.

(c) A district may require that only the following be included in the permit or permit amendment application, as applicable under the rules of the district:

(1) the name and mailing address of the applicant and the owner of the land on which the well will be located;

(2) if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;

(3) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

(4) a water conservation plan or a declaration that the applicant will comply with the district's management plan;

(5) the location of each well and the estimated rate at which water will be withdrawn;

(6) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the commission; ~~and~~

(7) a drought contingency plan; and

(8) other information:

(A) included in a rule of the district in effect on the date the application is submitted that specifies what information must be included in an application for a determination of administrative completeness; and

(B) reasonably related to an issue that a district by law is authorized to consider.

(d) This subsection does not apply to the renewal of an operating permit issued under Section 36.1145. Before granting or denying a permit, or a permit amendment issued in accordance with Section 36.1146, the district shall consider whether:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's approved management plan;

(5) if the well will be located in the Hill Country Priority Groundwater Management Area, the proposed use of water from the well is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape;

(6) the applicant has agreed to avoid waste and achieve water conservation; and

(7) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

(e) The district may impose more restrictive permit conditions on new permit applications and permit amendment applications to increase use by historic users if the limitations:

(1) apply to all subsequent new permit applications and permit amendment applications to increase use by historic users, regardless of type or location of use;

(2) bear a reasonable relationship to the existing district management plan; and

(3) are reasonably necessary to protect existing use.

(f) This subsection does not apply to the renewal of an operating permit issued under Section 36.1145. Permits, and permit amendments issued in accordance with Section 36.1146, may be issued subject to the rules promulgated by the district and subject to terms and provisions with reference to the drilling, equipping, completion, alteration, or operation of, or production of groundwater from, wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence.

(h) In issuing a permit for an existing or historic use, a district may not discriminate between land that is irrigated for production and land or wells on land that was irrigated for production and enrolled or participating in a federal conservation program.

(i) A permitting decision by a district is void if:

(1) the district makes its decision in violation of Subsection (h); and

(2) the district would have reached a different decision if the district had treated land or wells on land that was irrigated for production and enrolled or participating in a federal conservation program the same as land irrigated for production.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 4.30, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 966, Sec. 2.49, eff. Sept. 1, 2001. Amended by: Acts 2005, 79th Leg., Ch. 970 (H.B. 1763), Sec. 10, eff. September 1, 2005. Acts 2005, 79th Leg., Ch. 1116 (H.B. 2423), Sec. 4, eff. September 1, 2005. Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.21, eff. September 1, 2007. Acts 2011, 82nd Leg., R.S., Ch. 17 (S.B. 727), Sec. 4, eff. April 29, 2011. Acts 2015, 84th Leg., R.S., Ch. 308 (S.B. 854), Sec. 2, eff. September 1, 2015. **Acts 2017, 85th Leg., R.S., Ch. ___ (S.B. 1009), Sec. 1, eff. September 1, 2017.**

~~Sec. 36.1131. ELEMENTS OF PERMIT. (a) A permit issued by the district to the applicant under Section 36.113 shall state the terms and provisions prescribed by the district.~~

~~(b) The permit may include:~~

- ~~(1) the name and address of the person to whom the permit is issued;~~
- ~~(2) the location of the well;~~
- ~~(3) the date the permit is to expire if no well is drilled;~~
- ~~(4) a statement of the purpose for which the well is to be used;~~
- ~~(5) a requirement that the water withdrawn under the permit be put to beneficial use at all times;~~
- ~~(6) the location of the use of the water from the well;~~
- ~~(7) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the commission;~~
- ~~(8) the conditions and restrictions, if any, placed on the rate and amount of withdrawal;~~
- ~~(9) any conservation-oriented methods of drilling and operating prescribed by the district;~~
- ~~(10) a drought contingency plan prescribed by the district; and~~
- ~~(11) other terms and conditions as provided by Section 36.113.~~

~~Added by Acts 1997, 75th Leg., ch. 1010, Sec. 4.31, eff. Sept. 1, 1997.~~

Sec. 36.1132. PERMITS BASED ON MODELED AVAILABLE GROUNDWATER. (a) A district, to the extent possible, shall issue permits up to the point that the total volume of exempt and permitted groundwater production will achieve an applicable desired future condition under Section 36.108.

(b) In issuing permits, the district shall manage total groundwater production on a long-term basis to achieve an applicable desired future condition and consider:

- (1) the modeled available groundwater determined by the executive administrator;
- (2) the executive administrator's estimate of the current and projected amount of groundwater produced under exemptions granted by district rules and Section 36.117;
- (3) the amount of groundwater authorized under permits previously issued by the district;
- (4) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the district; and
- (5) yearly precipitation and production patterns.

(c) In developing the estimate of exempt use under Subsection (b)(2), the executive administrator shall solicit information from each applicable district.

(d) Production under a permit issued under Section 36.1015 to produce brackish groundwater from a designated brackish groundwater production zone is in addition to the amount of groundwater that may be produced based on Subsections (b)(1) and (2). To the extent possible, a district shall issue permits up to the point that the total volume of exempt and permitted groundwater production in a designated brackish groundwater production zone equals the amount of brackish groundwater that may be produced annually to achieve the groundwater availability described by the Texas Water Development Board in its designation of the brackish groundwater production zone under Section 16.060(e).

Added by Acts 2005, 79th Leg., Ch. 970 (H.B. 1763), Sec. 11, eff. September 1, 2005. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 18 (S.B. 737), Sec. 4, eff. September 1, 2011. Amended by Acts 2017, 85th Leg., R.S., Ch. ___ (H.B.2377), Sec. 2, eff. September 1, 2017.

Sec. 36.114. PERMIT; PERMIT AMENDMENT; APPLICATION AND HEARING. (a) The district by rule shall determine each activity regulated by the district for which a permit or permit amendment is required.

(b) For each activity for which the district determines a permit or permit amendment is required under Subsection (a), and that is not exempt from a hearing requirement under Section 36.1145, the district by rule shall determine whether a hearing on the permit or permit amendment application is required.

(c) For all applications for which a hearing is not required under Subsection (b) or Section 36.1145, the board shall act on the application at a meeting, as defined by Section 551.001, Government Code, unless the board by rule has delegated to the general manager the authority to act on the application.

(d) The district shall promptly consider and act on each administratively complete application for a permit or permit amendment as provided by Subsection (c) or Subchapter M.

(e) If, within 60 days after the date an administratively complete application is submitted, the application has not been acted on or set for a hearing on a specific date, the applicant may petition the district court of the county where the land is located for a writ of mandamus to compel the district to act on the application or set a date for a hearing on the application, as appropriate.

(f) For applications requiring a hearing, the initial hearing shall be held within 35 days after the setting of the date, and the district shall act on the application within 60 days after the date the final hearing on the application is concluded.

(g) The district may by rule set a time when an application will expire if the information requested in the application is not provided to the district.

(h) An application is administratively complete if it contains the [application requires] information set forth under [in accordance with] Sections 36.113 and 36.1131. A district shall not require that additional information be included in an application for a determination of administrative completeness.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 319, Sec. 1, eff. May 24, 2001. Amended by: Acts 2005, 79th Leg., Ch. 970 (H.B. 1763), Sec. 10, eff. September 1, 2005. Acts 2015, 84th Leg., R.S., Ch. 308 (S.B. 854), Sec. 3, eff. September 1, 2015. **Acts 2017, 85th Leg., R.S., Ch. ___ (S.B. 1009), Sec. 2, eff. September 1, 2017.**

Sec. 36.1145. OPERATING PERMIT RENEWAL. (a) Except as provided by Subsection (b), a district shall without a hearing renew or approve an application to renew an operating permit before the date on which the permit expires, provided that:

(1) the application, if required by the district, is submitted in a timely manner and accompanied by any required fees in accordance with district rules; and

(2) the permit holder is not requesting a change related to the renewal that would require a permit amendment under district rules.

(b) A district is not required to renew a permit under this section if the applicant:

(1) is delinquent in paying a fee required by the district;

(2) is subject to a pending enforcement action for a substantive violation of a district permit, order, or rule that has not been settled by agreement with the district or a final adjudication; or

(3) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order, or rule.

(c) If a district is not required to renew a permit under Subsection (b)(2), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.

Added by Acts 2015, 84th Leg., R.S., Ch. 308 (S.B. 854), Sec. 4, eff. September 1, 2015.

Sec. 36.1146. CHANGE IN OPERATING PERMITS. (a) If the holder of an operating permit, in connection with the renewal of a permit or otherwise, requests a change that requires an amendment to the permit under district rules, the permit as it existed before the permit amendment process remains in effect until the later of:

(1) the conclusion of the permit amendment or renewal process, as applicable; or

(2) final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment.

(b) If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed under Section 36.1145 without penalty, unless Subsection (b) of that section applies to the applicant.

(c) A district may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with the district's rules. If a district initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

Added by Acts 2015, 84th Leg., R.S., Ch. 308 (S.B. 854), Sec. 4, eff. September 1, 2015.

(l) This chapter applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This chapter does not apply to production or injection wells drilled for oil, gas, sulphur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluids, under permits issued by the Railroad Commission of Texas.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 4.32, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 239, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 966, Sec. 2.51, eff. Sept. 1, 2001. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.22, eff. September 1, 2007. Acts 2011, 82nd Leg., R.S., Ch. 16 (S.B. 691), Sec. 1, eff. September 1, 2011. Acts 2011, 82nd Leg., R.S., Ch. 32 (S.B. 692), Sec. 1, eff. May 9, 2011. Acts 2015, 84th Leg., R.S., Ch. 415 (H.B. 2767), Sec. 7, eff. June 10, 2015.

Sec. 36.118. OPEN OR UNCOVERED WELLS; ABANDONED OR DETERIORATED WELLS. (a) A district may require the owner or lessee of land on which an open or uncovered well or abandoned well is located to keep the well permanently closed or capped with a covering that is:

- (1) capable of sustaining weight of at least 400 pounds; and
- (2) not easily removed [~~except when the well is in actual use~~].

(b) In [~~As used in~~] this section:

(1) "Abandoned well" has the meaning assigned by Section 1901.255, Occupations Code.

(2) "Deteriorated well" has the meaning assigned by Section 1901.255, Occupations Code.

(3) "Open [~~or open~~] or uncovered well" means an artificial excavation dug or drilled for the purpose of exploring for or producing water from the groundwater reservoir and is not capped or covered as required by this chapter.

(c) A district shall require the owner or lessee of land on which a deteriorated well is located to plug the well or repair the well sufficiently to prevent pollution of any water in this state, including groundwater. The district shall notify the owner or lessee of a requirement under this subsection. If the owner or lessee fails or refuses to repair or plug [~~close or cap~~] the well [~~in compliance with this chapter~~] in accordance with district rules, not later than the 10th day after the date the owner or lessee receives the notice from the district, any person, firm, or corporation employed by the district may go on the land and repair or plug [~~close or cap~~] the well safely and securely.

(d) Reasonable expenses incurred by the district in repairing or plugging [~~closing or capping~~] a well constitute a lien on the land on which the well is located.

(e) The lien arises and attaches upon recordation in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

- (1) the existence of the well;
- (2) the legal description of the property on which the well is located;

- (3) the approximate location of the well on the property;
 - (4) the failure or refusal of the owner or lessee, after notification, to repair or plug ~~elose~~ the well within 10 days after the notification;
 - (5) the repairing or plugging ~~elosing~~ of the well by the district, or by an authorized agent, representative, or employee of the district; and
 - (6) the expense incurred by the district in repairing or plugging ~~elosing~~ the well.
- (f) Nothing in this section affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.

(g) An employee of the Bandera County River Authority and Groundwater District may cap an open, uncovered, or abandoned well, or repair or plug a deteriorated well inside the district, if the employee has received training for capping, repairing, or plugging a well located in a karst topographic area. An employee acting under this section is not required to have a license under Chapter 1901, Occupations Code, to perform the action authorized by this subsection.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2017, 85th Leg., R.S., Ch. ___ (H.B. 3025), Sec. 2,4, eff. immediately.

Sec. 36.119. ILLEGAL DRILLING AND OPERATION OF WELL; CITIZEN SUIT.

(a) Drilling or operating a well or wells without a required permit or producing groundwater in violation of a district rule adopted under Section 36.116(a)(2) is declared to be illegal, wasteful per se, and a nuisance.

(b) Except as provided by this section, a landowner or other person who has a right to produce groundwater from land that is adjacent to the land on which a well or wells are drilled or operated without a required permit or permits or from which groundwater is produced in violation of a district rule adopted under Section 36.116(a)(2), or who owns or otherwise has a right to produce groundwater from land that lies within one-half mile of the well or wells, may sue the owner of the well or wells in a court of competent jurisdiction to restrain or enjoin the illegal drilling, operation, or both. The suit may be brought with or without the joinder of the district.

(c) Except as provided by this section, the aggrieved party may also sue the owner of the well or wells for damages for injuries suffered by reason of the illegal operation or production and for other relief to which the party may be entitled. In a suit for damages against the owner of the well or wells, the existence of a well or wells drilled without a required permit or the operation of a well or wells in violation of a district rule adopted under Section 36.116(a)(2) is prima facie evidence of illegal drainage.

(d) The suit may be brought in the county where the illegal well is located or in the county where all or part of the affected land is located.

(e) The remedies provided by this section are cumulative of other remedies available to the individual or the district.

(f) A suit brought under this section shall be advanced for trial and determined as expeditiously as possible. The court shall not grant a postponement or continuance, including a first motion, except for reasons considered imperative by the court.

(g) Before filing a suit under Subsection (b) or (c), an aggrieved party must file a written complaint with the district having jurisdiction over the well or wells drilled or operated without a required permit or in violation of a district rule. The district shall investigate the complaint and, after notice and hearing and not later than the 90th day after the date the written complaint was received by the district, the district shall determine, based on the evidence presented at the hearing, whether a district rule has been violated. The aggrieved party may only file a suit under this section on or after the 91st day after the date the written complaint was received by the district.

(h) Notwithstanding Subsection (g), an aggrieved party under Subsection (b) may sue a well owner or well driller in a court of competent jurisdiction to restrain or enjoin the drilling or completion of an illegal well after filing the written complaint with the district under Subsection (g) and without the need to wait for a hearing on the matter.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1321 (S.B. 1383), Sec. 1, eff. June 15, 2007.

Sec. 36.120. INFORMATION. On request of the executive director or the executive administrator, the district shall make available information that it acquires concerning the groundwater resources within its jurisdiction. The district shall also provide information to the commission and Texas Water Development Board concerning its plans and activities in conserving and protecting groundwater resources. On request of a district, the executive director and the executive administrator shall provide information they acquire concerning the groundwater resources within the district's jurisdiction.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.

Sec. 36.121. LIMITATION ON RULEMAKING POWER OF DISTRICTS OVER WELLS IN CERTAIN COUNTIES. Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991, shall exempt from regulation under this chapter a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 121,000 or less and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 115,000 or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's boundaries.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 966, Sec. 11.04, eff. Sept. 1, 2001. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1042 (H.B. 3109), Sec. 1, eff. June 17, 2011. Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 181, eff. September 1, 2011.

Reenacted by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 21.002, eff. September 1, 2013.

Sec. 36.122. TRANSFER OF GROUNDWATER OUT OF DISTRICT. (a) If an application for a permit or an amendment to a permit under Section 36.113 proposes the transfer

of groundwater outside of a district's boundaries, the district may also consider the provisions of this section in determining whether to grant or deny the permit or permit amendment.

(b) A district may promulgate rules requiring a person to obtain a permit or an amendment to a permit under Section 36.113 from the district for the transfer of groundwater out of the district to:

(1) increase, on or after March 2, 1997, the amount of groundwater to be transferred under a continuing arrangement in effect before that date; or

(2) transfer groundwater out of the district on or after March 2, 1997, under a new arrangement.

(c) Except as provided in Section 36.113(e), the district may not impose more restrictive permit conditions on transporters than the district imposes on existing in-district users.

(d) The district may impose a reasonable fee for processing an application under this section. The fee may not exceed fees that the district imposes for processing other applications under Section 36.113. An application filed to comply with this section shall be considered and processed under the same procedures as other applications for permits under Section 36.113 and shall be combined with applications filed to obtain a permit for in-district water use under Section 36.113 from the same applicant.

(e) The district may impose an export fee or surcharge using one of the following methods:

(1) a fee negotiated between the district and the exporter;

(2) a rate not to exceed the equivalent of the district's tax rate per hundred dollars of valuation for each thousand gallons of water exported from the district or 2.5 cents per thousand gallons of water, if the district assesses a tax rate of less than 2.5 cents per hundred dollars of valuation; or

(3) for a fee-based district, a 50 percent surcharge, in addition to the district's production fee, for water exported from the district.

(f) In reviewing a proposed transfer of groundwater out of the district, the district shall consider:

(1) the availability of water in the district and in the proposed receiving area during the period for which the water supply is requested;

(2) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the district; and

(3) the approved regional water plan and approved district management plan.

(g) The district may not deny a permit based on the fact that the applicant seeks to transfer groundwater outside of the district but may limit a permit issued under this section if conditions in Subsection (f) warrant the limitation, subject to Subsection (c).

(h) In addition to conditions provided by Section 36.1131, the permit shall specify:

(1) the amount of water that may be transferred out of the district; and

(2) the period for which the water may be transferred.

(i) The period specified by Subsection (h)(2) shall be:

(1) at least three years if construction of a conveyance system has not been initiated prior to the issuance of the permit; or

(2) at least 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit.

(j) A term under Subsection (i)(1) shall automatically be extended to the terms agreed to under Subsection (i)(2) if construction of a conveyance system is begun before the expiration of the initial term.

(j-1) A term under Subsection (i) or (j) shall automatically be extended on or before its expiration:

(1) to a term that is not shorter than the term of an operating permit for the production of water to be transferred that is in effect at the time of the extension; and

(2) for each additional term for which that operating permit for production is renewed under Section 36.1145 or remains in effect under Section 36.1146.

(j-2) A permit automatically extended under Subsection (j-1) continues to be subject to conditions contained in the permit as issued before the automatic extension.

(k) Notwithstanding the period specified under Subsection [in Subsections] (i), [and] (j), or (j-1) during which water may be transferred under a permit, a district may periodically review the amount of water that may be transferred under the permit and may limit the amount if additional factors considered in Subsection (f) warrant the limitation, subject to Subsection (c). The review described by this subsection may take place not more frequently than the period provided for the review or renewal of regular permits issued by the district. In its determination of whether to renew a permit issued under this section, the district shall consider relevant and current data for the conservation of groundwater resources and shall consider the permit in the same manner it would consider any other permit in the district.

(l) A district is prohibited from using revenues obtained under Subsection (e) to prohibit the transfer of groundwater outside of a district. A district is not prohibited from using revenues obtained under Subsection (e) for paying expenses related to enforcement of this chapter or district rules.

(m) A district may not prohibit the export of groundwater if the purchase was in effect on or before June 1, 1997.

(n) This section applies only to a transfer of water that is permitted after September 1, 1997.

(o) A district shall adopt rules as necessary to implement this section but may not adopt rules expressly prohibiting the export of groundwater.

(p) Subsection (e) does not apply to a district that is collecting an export fee or surcharge on March 1, 2001.

(q) In applying this section, a district must be fair, impartial, and nondiscriminatory.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 4.33, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 966, Sec. 2.52, eff. Sept. 1, 2001. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 17 (S.B. 727), Sec. 6, eff. April 29, 2011. Acts 2015, 84th Leg., R.S., Ch. 415 (H.B. 2767), Sec. 8, eff. June 10, 2015. **Acts 2017, 85th Leg., R.S., Ch. ___ (H.B.2378), Sec. 1, eff. September 1, 2017 (The changes in law made by this Act apply only to the term of a permit issued under Sections 36.122(i) and (j), Water Code, that expires after September 1, 2017).**

Sec. 36.123. RIGHT TO ENTER LAND. (a) The directors, engineers, attorneys, agents, operators, and employees of a district or water supply corporation may go on any land to inspect, make surveys, or perform tests to determine the condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the district or the water supply corporation.

(b) District employees and agents are entitled to enter any public or private property within the boundaries of the district or adjacent to any reservoir or other property owned by the district at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the district. District employees or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

Added by Acts 1999, 76th Leg., ch. 1354, Sec. 3, eff. Sept. 1, 1999.

Sec. 36.124. DISTRICT ACT OR PROCEEDING PRESUMED VALID. (a) A governmental act or proceeding of a district is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if:

- (1) the third anniversary of the effective date of the act or proceeding has expired;
- and
- (2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that third anniversary.

(b) This section does not apply to:

- (1) an act or proceeding that was void at the time it occurred;
- (2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred;
- (3) a rule that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 or 109.57, Alcoholic Beverage Code; or
- (4) a matter that on the effective date of this section:
 - (A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or
 - (B) has been held invalid by a final judgment of a court.

Added by Acts 2001, 77th Leg., ch. 389, Sec. 1, eff. May 28, 2001.

~~Sec. 36.125. EDWARDS AQUIFER AUTHORITY. (a) Except as provided by Subsection (b), this subchapter does not apply to the Edwards Aquifer Authority.~~

~~(b) Sections 36.102 and 36.118 apply to the Edwards Aquifer Authority.~~

~~Added by Acts 2015, 84th Leg., R.S., Ch. 1196 (S.B. 1336), Sec. 4, eff. September 1, 2015.~~

SUBCHAPTER E. DISTRICT FINANCES

Sec. 36.151. EXPENDITURES. (a) A district's money may be disbursed only by check, draft, order, or other instrument.

(b) Disbursements, other than federal reserve wire transfers or electronic fund transfers, shall be signed by at least two directors, except the board may by resolution allow certain employees of the district, or a combination of employees and directors, to sign disbursements on behalf of the board. The board may authorize payroll disbursements by electronic direct deposit.

(c) The board may by resolution allow disbursements to be transferred by federal reserve wire system, or by electronic means, to accounts in the name of the district or accounts not in the name of the district.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2017, 85th Leg., R.S., Ch. ____ (S.B. 865), Sec. 1, eff. immediately.

~~Sec. 36.152. FISCAL YEAR. (a) The district shall be operated on the basis of a fiscal year established by the board.~~

~~(b) The fiscal year may not be changed during a period in which revenue bonds of the district are outstanding or more than once in a 24-month period.~~

~~Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.~~

~~Sec. 36.153. ANNUAL AUDIT. (a) Annually and subject to Subsection (c), the board shall have an audit made of the financial condition of the district. The district audit shall be performed according to the generally accepted government auditing standards adopted by the American Institute of Certified Public Accountants.~~

~~(b) Financial statements shall be prepared in accordance with generally accepted accounting principles as adopted by the American Institute of Certified Public Accountants. The annual audit and other district records must be open to inspection during regular business hours at the principal office of the district.~~

~~(c) The district is exempt from the requirement under Subsection (a) if it had:~~

~~(1) not more than \$500 in receipts from operations, tax assessments, loans, contributions, or any other sources during the calendar year;~~