

BILL	AUTHOR	STATUS	ACTION REQUESTED	COMMENTS
HB 722	Larson	Filed 1/10/2019 Referred HNRC 2/21/19	Neutral	<p>Amends Chapter 36, Water, to add Section 36.1015 “Rules for Permits in Brackish Groundwater Production Zones”</p> <ul style="list-style-type: none"> <li>• "Designated brackish groundwater production zone" means an aquifer, subdivision of an aquifer, or geologic stratum designated under Section 16.060(b)(5) by TWDB</li> <li>• defines the Gulf Coast aquifer</li> </ul> <p>GCD must adopt rules, if petitioned to, for Designated brackish groundwater production zone that must 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)—developed by TWDB</p> <ul style="list-style-type: none"> <li>• must have 30-year permits</li> <li>• must monitor water levels and water quality in same and adjacent aquifer</li> <li>• must monitor land elevations for subsidence</li> <li>• brackish permit holder must submit annual report</li> <li>• GCD must submit to TWDB for technical review</li> </ul> <p>•Rules adopted under this section must provide that the production authorized from a designated brackish groundwater production zone is in addition to the amount of managed available groundwater provided under Section 36.108. 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 development board in its designation of the brackish groundwater production zone under Section 16.060(e).</p>

				<ul style="list-style-type: none"> <li>• A district may not adopt rules limiting access to the production of groundwater within a designated brackish groundwater production zone to only those projects described by Subsection(c).</li> </ul> <p><b>Concern:</b> Gives TWDB authority over brackish groundwater permits, yet GCD must administer and bear risks that TWDB does not.</p>
HB 726	Larson	Filed 1/10/2019 Referred HNRC 2/21/19	Support/monitor	<p>Amends §§ 36.113, 36. 122 and adds 36.426.</p> <p><b>§36.113: amends below consideration when granting a permit:</b>  (d) (2) the <u>projected effect of the proposed production</u> [<del>use of water</del>] <u>unreasonably affects aquifer conditions, artesian pressure, depletion, or subsidence, existing groundwater and surface water resources, [or] existing permit holders, or registered wells that are exempt from the requirement to obtain a permit under this chapter or district rules;</u></p> <p>(d-1) <u>The district ’s consideration of the projected effect of the proposed production on a registered well described by Subsection (d)(2) does not affect a permit exemption for the registered well under this chapter or district rules.</u></p> <p><b>Adds section 36.1147 (vested rights type rule regarding rule applicable to a permit authorization):</b></p> <p><u>Sec. 36.1147. LIMITATION ON APPLICABILITY OF RULES. The rules of a district in effect on the date an application for a permit or a permit amendment is submitted to the district are the only district rules that may govern the district ’s decision to grant or deny the application.</u></p> <p>Significantly overhauls 36.122 regarding Export.</p> <p>--repeals §§ 36.122(f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (q).</p>

				<p style="text-align: center;">Sec. 36.122. <u>EXPORT</u> [<del>TRANSFER</del>] OF GROUNDWATER OUT OF DISTRICT.</p> <p>(a) <u>This section applies to</u> [<del>It</del>] an application for a permit or an amendment to a permit under Section 36.113 <u>that proposes the export</u> [<del>transfer</del>] of groundwater <u>for use</u> outside of a district's boundaries[<del>, the district may also consider the provisions of this section in determining whether to grant or deny the permit or permit amendment</del>].</p> <p>(b) A district may promulgate rules requiring a person to obtain <u>an operating</u> [<del>a</del>] permit or an amendment to <u>an operating</u> [<del>a</del>] permit under Section 36.113 from the district <u>to produce and export</u> [<del>for the transfer of</del>] groundwater. <u>A district may not require a separate permit for the export of groundwater for use outside</u> [<del>out</del>] of the district [<del>to:</del></p> <p style="padding-left: 40px;">[(1) <del>increase, on or after March 2, 1997, the amount of groundwater to be transferred under a continuing arrangement in effect before that date; or</del></p> <p style="padding-left: 40px;">[(2) <del>transfer groundwater out of the district on or after March 2, 1997, under a new arrangement</del>].</p> <p>(c) Except as provided in <u>Subsection (e)</u> [<del>Section 36.113(e)</del>], the district may not impose more restrictive <u>requirements or permit conditions on exporters</u> [<del>transporters</del>] than the district imposes on [<del>existing</del>] in-district users. <u>A district may not deny a permit because the applicant intends to export groundwater for use outside of the district.</u></p> <p>(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 <u>under</u> [<del>to comply with</del>] this section shall be considered and processed under the same procedures as other applications for permits under Section 36.113 [<del>and shall be combined with applications filed to obtain a permit for in-district water use under Section 36.113 from the same applicant</del>].</p> <p>(e) The district may impose an export fee or surcharge <u>on the</u></p>
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HB 1066	Ashby	Filed 1/24/2019 Referred HNRC 2/26/19	Support/monitor	The bill applies 36.1145, regarding automatic permit renewals, to transport permits (permits exporting water out of the GCD under 36.122). It also applies 36.1146, changes to permits, to transport

		HNRC 3/5/19 Left Pending	Support/monitor	permits. This extends the same renewal and amendment criteria to transport permits as is currently applied to regular operating permits.
SB 800	Perry	Filed 2/12/2019		IDENTICAL to HB 1066
HB 2122	Harris	Filed 2/20/19 Referred HNRC 3/6/19		<p><b>Address retail water utilities using water rights with in their service area</b></p> <p>Section 36.002(d), Water Code, is amended to read as follows:  (d) This section does not:  (1) prohibit a district from limiting or prohibiting the drilling of a well by a landowner for failure or inability to comply with minimum well spacing or tract size requirements adopted by the district;  (2) affect the ability of a district to regulate groundwater production as authorized under Section 36.113, 36.116, <u>36.1161</u>, or 36.122 or otherwise under this chapter or a special law governing a district; or  (3) require that a rule adopted by a district allocate to each landowner a proportionate share of available groundwater for production from the aquifer based on the number of acres owned by the landowner.</p> <p>SECTION 2. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1161 to read as follows:  <u>Sec. 36.1161. REGULATION OF PRODUCTION BY RETAIL PUBLIC UTILITIES. (a) In this section, "retail public utility" has the meaning assigned by Section 13.002.</u>  <u>(b) This section applies only to a district that regulates production under Section 36.116 based on tract size or acreage.</u>  <u>(c) A retail public utility may petition a district to authorize the retail public utility to produce groundwater based on:</u>  (1) <u>the aggregate acreage owned or leased by the retail public utility; and</u>  (2) <u>the acreage of the landowners served by the retail</u></p>

				<p><u>public utility as provided by Subsection (d).</u></p> <p><u>(d) A district may only base a retail public utility's authorized production amount under this section in a manner consistent with district rules and based on acreage of landowners served by the retail public utility if:</u></p> <p><u>(1) the utility has acquired from the landowner a real property interest in the groundwater beneath the land; or</u></p> <p><u>(2) the landowner has provided written permission for the retail public utility to exercise the utility's real property interest in the groundwater beneath the landowner's land until the landowner:</u></p> <p><u>(A) drills a well and produces water from the land; or</u></p> <p><u>(B) transfers title to the land or real property interest in the groundwater to another person.</u></p> <p><u>(e) The district shall hold a public hearing to consider approval of a petition submitted under this section. The district shall require the retail public utility submitting the petition to provide written notice of the hearing not later than the 60th day before the date of the hearing to:</u></p> <p><u>(1) the landowners served by the retail public utility;</u></p> <p><u>(2) persons with permitted or registered wells in the district; and</u></p> <p><u>(3) persons not described by Subdivision (1) or (2) who have a property interest in groundwater under land that is within one mile of the utility's wells in the district.</u></p> <p><u>(f) The district shall consider a petition at a hearing under this section in the same manner as a rulemaking hearing under Section 36.101.</u></p> <p>SECTION 3. Section 36.414(a), Water Code, is amended to read as follows:</p> <p>(a) Except as provided by Subsection (b), a district shall process applications from a single applicant under consolidated notice and hearing procedures on written request by the applicant if the district requires a separate permit or permit amendment application for:</p>
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				<p>(1) drilling, equipping, operating, or completing a well or substantially altering the size of a well or well pump under Section 36.113;</p> <p>(2) the spacing of water wells or the production of groundwater under Section 36.116 <u>or 36.1161</u>; or</p> <p>(3) transferring groundwater out of a district under Section 36.122.</p> <p>SECTION 4. Section 36.116(c), Water Code, is repealed.</p>
SB 2026	Perry	Filed 3/7/19		IDENTICAL to HB 2122
HB 2123	Harris	Filed 2/20/19 Referred HNRC 3/6/19		Allows anyone to petition a GCD to change their rules and sue if the GCD does not change the rules as requested
HB 2125	Burns	Filed 2/20/19 Referred to HNRC 3/6/19		<p>Amends attorney fees:</p> <p>Section 36.066, Water Code, is amended by amending Subsection (g) and adding Subsection (i) to read as follows:</p> <p>(g) If the district prevails in any suit other than a suit in which it voluntarily intervenes, the district may seek and the court <u>may</u> [<del>shall</del>] grant, in the interests of justice and as provided by Subsection (h), 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 <u>in an amount not to exceed \$100,000.</u></p> <p><u>(i) Notwithstanding Section 36.052(a), Subsections (g) and (h) of this section prevail over any other special law inconsistent with those subsections unless the other law:</u></p> <p><u>(1) limits an award of attorney's fees in a suit to an amount less than \$100,000; or</u></p> <p><u>(2) prohibits an award of attorney's fees or costs.</u></p>
HB 2249	Lucio	Filed 2/22/19		Requires GCDs to use water rights within retail water utilities' service area without requiring the retail water utilities to legally control the

				water rights
HB 3998	Wilson	Filed 3/7/19		<p>Creates Groundwater Management Authorities to assist the Texas Water Development Board in determining desired future conditions and groundwater availability of the state's aquifers.</p> <p>To make DFCs limit groundwater production:</p> <p>Requires GCDs boundaries to be inside or coterminous with Groundwater Management Authorities---GCDs cannot regulate spacing and production</p> <p>Says: state's policy is to monetize surface water and groundwater through water trading free markets that establish true market value</p>
HB 4570	Larson	Filed 3/8/19		<p>Establishes an advisory board to study surface water and groundwater interaction</p> <p>--does include one GCD person</p>
SB 851	Perry	Filed 2/15/2019 Referred SWRA 3/1/19		<p>Amends Attorney fees:</p> <p>Section 36.066(g), Water Code, is amended to read as follows: (g) <u>In a suit to which [If] the district is a party, [prevails in any suit other than a suit in which it voluntarily intervenes, the district may seek and] the court may [shall] grant reasonable and necessary [,-in the interests of justice and as provided by Subsection (h), in the same action, recovery for] attorney's fees, costs for expert witnesses, and other costs incurred by the prevailing party [district] before the court as the court considers equitable and just. The court may not award more than \$250,000 in attorney's fees. [The amount of the attorney's fees shall be fixed by the court.]</u></p> <p>SECTION 2. Section 36.102(d), Water Code, is amended to read as follows: (d) <u>In a [If the district prevails in any] suit to enforce the district's [its] rules, the [district may seek and the] court may [shall]</u></p>

			<p>grant <u>reasonable and necessary</u> [<del>against any person, in the same action, recovery for</del>] attorney's fees, costs for expert witnesses, and other costs incurred by the <u>prevailing party</u> [<del>district</del>] before the court as the court <u>considers equitable and just</u>. [<del>The amount of the attorney's fees shall be fixed by the court.</del>]</p> <p>SECTION 3. Section 36.066(h), Water Code, is repealed.</p>
SB 1010	Perry	Files 2/22/19 Referred SWRA 3/1/19	<p><b>Relating to rules adopted by groundwater conservation districts overlying a common aquifer.</b></p> <p>SECTION 1. Section 36.101, Water Code, is amended by adding Subsection (a-2) to read as follows:</p> <p><u>(a-2) Except as provided by this subsection, a district that overlies a common aquifer with one or more districts that regulate levels of groundwater production similar to the level the district regulates may not make or enforce a rule under Subsection (a) unless the rule is similar to a rule made or enforced under Subsection (a) by the other district or districts that overlie the aquifer. The district may make or enforce a rule that is not similar to a rule made or enforced by the other district or districts only if the district:</u></p> <p><u>(1) is authorized by other law specifically to make or enforce the rule; or</u></p> <p><u>(2) provides in the district's management plan developed under Section 36.1071 an explanation of the district's reasoning to support its making or enforcing the rule.</u></p> <p>SECTION 2. Section 36.1071(e), Water Code, is amended to read as follows:</p> <p>(e) In the management plan described under Subsection (a), the district shall:</p> <p><u>(5) if applicable under Section 36.101(a-2), explain the district's reasoning to support the district making or enforcing under Section 36.101(a) a rule that is not similar to a rule made or enforced by another district described by Section 36.101(a-2).</u></p>

SB 2027	Perry	Filed 3/7/19		Amends 36. 10835(a) and 36.253, Water Code to change standard of review from substantial evidence to trial de novo.