

SUBJECT: Extending the terms of groundwater exporting permits

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 7 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King

0 nays

4 absent — Lucio, Nevárez, Price, Workman

WITNESSES: For — (*Registered, but did not testify*: Claudia Russell, Central Texas Regional Water Supply Corporation; Dirk Aaron, Clearwater Underground Water Conservation District, Texas Alliance of Groundwater Districts; Ty Embrey, Middle Trinity Groundwater Conservation District; Randy Lee and Hope Wells, San Antonio Water System; Jason Skaggs, Texas and Southwestern Cattle Raisers Association; Kyle Frazier, Texas Desalination Association; Dean Robbins and Stacey Steinbach, Texas Water Conservation Association; Brian Sledge, various retail public utilities and groundwater conservation districts; Thomas Parkinson)

Against — Judith McGeary, Farm and Ranch Freedom Alliance; (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; Elizabeth Montgomery)

On — (*Registered, but did not testify*: Larry French, Texas Water Development Board)

BACKGROUND: Water Code, sec. 36.122(i)(2) establishes that a permit to export groundwater outside the boundaries of a groundwater conservation district (GCD) has a term of at least 30 years if the GCD began conveyance construction before the permit was issued. If construction was not initiated before a permit was issued but began before the initial term of the permit expired, the term must be automatically extended to 30 years. A GCD may periodically review the amount of water exported under a permit and limit that amount if certain factors such as water availability and aquifer

conditions warrant limitation.

Sec. 36.1145 requires a GCD, except in certain circumstances, to renew an operating permit without a hearing, provided that the permit holder is not requesting changes to the permit and submits the application in a timely manner, according to district rules.

Sec. 36.1146 allows a holder or a district to initiate an amendment to an operating permit upon renewal. The permit as it existed before the amendment process remains in effect either until the conclusion of the permit amendment or renewal process or the final settlement on whether a permit amendment is required.

DIGEST:

HB 275 automatically would extend on or before its expiration a permit to export groundwater outside the boundaries of a groundwater conservation district (GCD) to a term no shorter than that of the associated operating permit. The exporting permit also would be extended automatically for each additional term the operating permit was renewed or remained in effect, pursuant to Water Code, secs. 36.1145 and 36.1146, respectively. The exporting permit would continue to be subject to conditions contained in the permit as issued before its extension.

The bill would take effect December 1, 2017, and would apply only to exporting permits that expired after that date.

**SUPPORTERS
SAY:**

HB 275 would extend groundwater exporting permit terms to align with the remainder of the related production permit, reducing uncertainty for landowners, water utilities, and groundwater conservation districts (GCDs). Under current law, exporting permits, which normally have a term of 30 years, may expire before operating permits, leaving a water project developer without the ability to transport the water it produces. By rolling forward exporting permits along with their associated operating permits, the bill would close this gap.

Under the bill, GCDs still would be able to manage permits and fulfill regulatory goals. An exporting permit would not be automatically

renewed in perpetuity because it would be subject to current law governing renewals and amendments of operating permits. Current law allows a district to make changes to permits according to district rules, which are created through a public rulemaking process. They may review water availability and aquifer conditions and change the amount of water authorized to be transferred by the permit. Exporting permits extended by the bill still would be subject to their original conditions.

**OPPONENTS
SAY:**

HB 275 would remove the separate process of reviewing groundwater exported out of GCD boundaries by effectively combining exporting permits and operating permits. It is important for GCDs to review exporting permits periodically, rather than automatically extending them, in order to ensure concerns about water availability and aquifer conditions are fully studied. The bill should provide a process to grandfather in existing exporting permit terms as most existing permits were intended to expire after 30 years and should be subject to their original renewal procedures.

HB 275 would reduce public participation and transparency in the decision making of GCDs. The Legislature instead should propose a measure to accomplish the goals of HB 275 without inhibiting the ability of districts to respond to changed circumstances over time, as noted in the governor's veto message on HB 2378 by Larson, a similar bill passed during the 85th Legislature's regular session.