

SUBJECT: Coordinating corresponding transfer and production groundwater permits

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 11 ayes — Larson, Metcalf, Dominguez, Farrar, Harris, T. King, Lang,
Nevárez, Oliverson, Price, Ramos

0 nays

WITNESSES: For — Steve Kosub, San Antonio Water System; Stacey Steinbach, Texas Water Conservation Association; (*Registered, but did not testify*: Jeff Heckler, Alliance Regional Water Authority; Heather Harward, Brazos Valley GCD; Jeff Coyle, City of San Antonio; Dirk Aaron, Clearwater UWCD; Tom Oney, LCRA; Shauna Fitzsimmons Sledge, Prairielands Groundwater Conservation District, Upper Trinity Groundwater Conservation District; Martin Gutierrez, San Antonio Chamber of Commerce; Brian Mast, San Antonio River Authority; Billy Phenix, Schertz Seguin Local Government Corporation, Cibolo Valley Local Government Corporation; Jess Heck, SouthWest Water Company; Peyton Schumann, Texas and Southwestern Cattle Raisers Association; Mia Hutchens, Texas Association of Business; Dean Robbins, Texas Water Conservation Association)

Against — Judith McGeary, Farm and Ranch Freedom Alliance; James Lee Murphy and Ellen Berky, League of Independent Voters; Stan Mitchell, SAMBA; Michele Gangnes, Simsboro Aquifer Water Defense Fund; (*Registered, but did not testify*: Philip Cook, Environmental Stewardship; Linda Curtis, League of Independent Voters; Travis Brown, Neighbors for Neighbors Citizens Group Lee County; Todd Heeg, Our Revolution San Antonio; Christopher Mullins, Save Our Springs Alliance; Esther Martinez, SAWS; Jimmy Gaines, Texas Landowners Council; and 10 individuals)

On — Ken Kramer, Sierra Club-Lone Star Chapter; Leah Martinsson, Texas Alliance of Groundwater Districts; (*Registered, but did not testify*: Charles Flatten, Hill Country Alliance; John Dupnik, Texas Water

Development Board)

BACKGROUND: Water Code sec. 36.122 requires that the permit period for water transfer rights out of a groundwater conservation district (GCD) be at least 30 years if construction for transporting the water has started before the issuance of the permit. The GCD may review the amount of water that may be transferred under the permit no more frequently than the period provided for the review or renewal of regular permits issued by the district. It may limit that amount if warranted after considering:

- the availability of water in the district and in the proposed receiving area;
- the projected effects of the proposed transfer on the aquifer and on existing permit holders; and
- the regional water plan and district management plan.

Sec. 36.1145 requires a GCD to renew operating permits without a hearing if the permit holder does not request any alteration to the permit that would require an amendment under district rules. This requirement does not apply if the permit holder is delinquent in paying fees, is subject to a pending action on whether the applicant violated the provisions of the permit, or has failed to comply with an order finding it in violation of a district permit.

DIGEST: CSHB 1066 would require a groundwater conservation district (GCD) to extend the term of a groundwater transfer permit on or before its expiration to at least the length of the corresponding groundwater production permit from which the water was being transferred. Future renewals of groundwater production permits would renew corresponding transfer permits. These permits would be subject to the same conditions to which they were subject before their extension.

A GCD could grant or deny an application to extend a term only using rules that were in effect at the time the application was submitted, and the application would be governed by district rules consistent with the bill.

The bill would take effect September 1, 2019, and would apply only to transfer permits that expired after the effective date of the bill.

SUPPORTERS
SAY:

CSHB 1066 would increase the stability and efficiency of the groundwater permitting process by coordinating the terms of transfer permits with the terms of production permits.

Water utilities often need to invest hundreds of millions of dollars and plan decades in advance to secure long-term, reliable access to water for their customers. Current law partly reflects this by guaranteeing a transfer permit for 30 years if infrastructure investments are already being made.

However, local groundwater conservation district (GCD) production permits can be as short as one to five years, leading to permit holders being caught in a situation where they have made significant investments to provide water but lack the authorization to produce water they are already permitted to transfer.

Limiting when permits may be extended is counterproductive and unnecessary. Current law already protects the ability of a GCD to periodically review permits for negative impacts to aquifers and other permit holders and to limit water production where appropriate.

Only when no amendment to the permit was necessary would public meetings would not be required. If the GCD required an amendment to the permit, the expedited procedure would no longer apply. Limiting the permit extension or grandfathering in existing permits would be impractical for long-term, expensive utility projects.

OPPONENTS
SAY:

CSHB 1066 could deprive local districts and the public of discretion and of input into the permitting process by allowing for the automatic approval of many permits without a public hearing. The bill should include provisions for public participation to address any community concerns.

Under the bill, permits also could be extended for decades before they expired. This could have unforeseen consequences for the life of an aquifer, permitting future pumping of water that the aquifer might be

unable to sustain. For this reason, the bill should limit extensions to a more reasonable time frame such as six months before expiration.

Another solution would be to grandfather in existing permits. Current permits from GCDs were granted without accounting for the decades of extension and subsequent impact on the sustainable use of the aquifer. This would return local authority to GCDs and give them the discretion to make the best decision for their communities.