

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 862
By: Perry
Agriculture, Water & Rural Affairs
4/3/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, groundwater conservation districts (GCDs) that are involved in certain lawsuits may seek to recover costs incurred by the GCD as a result of the proceedings, such as attorney fees and court costs, for all issues on which the GCD prevails. If a GCD requests the recovery of those costs, the court is required to grant them recovery on all issues to which the GCD prevailed. The ability to automatically recover court costs on prevailing issues is one-sided; only the GCD has the ability to automatically recover those costs, whereas the other parties to the lawsuit do not enjoy the same ability to recover costs.

S.B. 862 puts all parties to lawsuits involving a GCD on a level playing field by allowing any prevailing party to automatically recover costs associated with that legal proceeding. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 862 amends current law relating to the award of attorney's fees and other costs in certain proceedings involving a groundwater conservation district.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 36.066(g), Water Code, as follows:

(g) Authorizes the court, in a suit to which the groundwater conservation district (GCD) is a party, to grant reasonable and necessary attorney's fees, costs for expert witnesses, and other costs incurred by the prevailing party before the court as are equitable and just, rather than authorizes the GCD to seek and requires the court to grant, if the GCD prevails in any suit other than a suit in which it voluntarily intervenes, 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 GCD before the court. Deletes existing text requiring that the amount of the attorney's fees be fixed by the court.

SECTION 2. Amends Section 36.102(d), Water Code, as follows:

(d) Authorizes the court, in any suit to enforce the GCD's rules, to grant reasonable and necessary attorney's fees, costs for expert witnesses, and other costs incurred by the prevailing party before the court as are equitable and just, rather than authorizes the GCD, if the GCD prevails in any suit to enforce its rules, to seek, and requires the court to grant against any person, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the GCD before the court. Deletes existing text requiring that the amount of the attorney's fees be fixed by the court.

SECTION 3. Repealer: Section 36.066(h) (relating to the court's award of attorney fees for certain issues which the district prevailed), Water Code.

SECTION 4. Makes application of Chapter 36, Water Code, of this Act prospective.

SECTION 5. Effective date: September 1, 2017.