

**SUBJECT:** Establishing security required for filing suit against groundwater districts

**COMMITTEE:** Natural Resources — committee substitute recommended

**VOTE:** 10 ayes — T. King, E. Thompson, Kacal, Kitzman, Lalani, Metcalf, Price, Ramos, Rogers, Zwiener

0 nays

1 absent — Gámez

**WITNESSES:** For — Edmond McCarthy, Needmore Ranch LLC & Needmore Water LLC & LaMantia Family (*Registered, but did not testify*: Nancy McKee)

Against — Melissa Rowell (*Registered, but did not testify*: David Gibson, Texas Corn Producers Association; Blake Roach, Texas Farm Bureau; Steven Rainer)

On — (*Registered, but did not testify*: Andrew Wier, Simsboro Aquifer Water Defense Fund)

**BACKGROUND:** Water Code sec. 36.251 establishes that suits may be filed against groundwater conservation districts by a person or entity who is affected by and dissatisfied with any rule made by the district, including appeals of decisions on permit applications.

Concerns have been raised that there is a rise in third parties appealing permits approved by groundwater districts due to a lack of cost sharing by the appellants.

**DIGEST:** CSHB 2735 would require a district to establish the amount of security required to file suit to challenge a rule or order made by the district under Water Code sec. 36.251, including an appeal of a decision on a permit application.

The bill would define "security" as a bond or deposit posted by a plaintiff

before filing suit against a district or by a judgment debtor to a district to suspend execution of the judgment during the appeal.

The amount of security required by an applicant could not exceed \$100,000.

The amount of security required by a party that was not the applicant in such an appeal would be increased by an amount sufficient to cover the applicant's cost to defend the permit or amendment granted by the district against the suit and appeal. The amount of such an increase could not exceed \$100,000.

Current statute governing securities for money judgement would apply to an appeal from a decision of the district court affirming a district's rule, order, or decision on a permit application. The amount of security required would be equal to the sum of:

- the amount of any civil penalty awarded;
- interest for the estimated duration of the suit or appeal; and
- attorney's fees and costs required for the district to defend against the suit and appeal.

Securities would be required to be filed into the registry of the district court in which the suit was filed.

The bill would take effect September 1, 2023 and the changes in law would apply only to suits filed on or after the effective date.