

BILL ANALYSIS

Senate Research Center
86R12336 GRM-D

S.B. 851
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Water & Rural Affairs
3/13/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

If a landowner feels that their groundwater rights are being restricted unfairly by a groundwater conservation district, the only recourse is to challenge the district in court.

Under current law, if a landowner sues a GCD and loses, they are required to pay the district's attorney's fees. However, if the landowner prevails, the GCD is not required to cover the landowner's attorney's fees.

S.B. 851 requires that in a court case in which a GCD is a party, the party which loses the case must pay the attorney's fees of the prevailing party not to exceed \$250,000.

As proposed, S.B. 851 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 Section 36.066(g), Water Code, as follows:

(g) Authorizes the court, in a suit to which the district 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 the court considers equitable and just, rather than requiring the court, if the district 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, to grant recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the district before the court. Prohibits the court from awarding more than \$250,000 in attorney's fees, rather than requiring the amount of the attorney's fees to be fixed by the court.

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

(d) Authorizes the court, in a suit to enforce the district'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 the court considers equitable and just, rather than requiring the court, if the district prevails in any suit to enforce its rules, to grant against any person, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the district before the court. Deletes existing text requiring the amount of the attorney's fees to be fixed by the court.

SECTION 3. Repealer: Section 36.066(h) (relating to a requirement that the court award attorney's fees and costs only for those issues on which the district prevails in a certain suit), Water Code.

SECTION 4. Makes application of Sections 36.066(g) and 36.102(d), Water Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2019.