

BILL ANALYSIS

Senate Research Center
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S.B. 56
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Natural Resources
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As Filed

DIGEST AND PURPOSE

Currently, Chapter 36 of the Texas Water Code allows groundwater conservation districts to protect existing and historic users of the aquifer. Section 36.113(e) allows a district to impose more restrictive permit conditions on new permit applications and increased use by historic users under certain conditions, while Section 36.116(b) allows districts to preserve historic use before the effective date of any rules limiting groundwater production. Impliedly, districts must determine who the existing and historic users are and how much water they are using or have used in order to implement these subsections.

As proposed, S.B. 56 provides clarification for certain districts overlying the Edwards Aquifer, but which are not regulated by the Edwards Aquifer Authority, by providing language that: (1) clarifies that such districts have express authority to require the existing or historic users to prove the maximum annual amount of groundwater that the user applied to a beneficial use over a reasonable time period established by the district; and (2) sets forth specific time periods to be used by such districts in establishing existing or historic users. Presently, a district could utilize any time period since no prescription is given under Chapter 36. Districts that meet the requirements created by the bill must satisfy certain provisions concerning the calculation of a user's amount of beneficial use as well as follow a specific order when limiting or reducing the total amount of permitted production of groundwater within its boundaries through proportionate reductions.

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 Subchapter D, Chapter 36, Water Code, by adding Section 36.1132, as follows:

Sec. 36.1132. DEFINED EXISTING AND HISTORIC USE PERIODS FOR CERTAIN DISTRICTS. (a) Provides that this section applies only to a groundwater conservation district (district) created under Section 59, Article XVI, Texas Constitution, that is, at least in part, adjacent to an international border, has within its boundaries a part of an aquifer that is regulated under Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, and is not regulated under Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

(b) Authorizes a district, in implementing Section 36.113(e) or 36.116(b), to institute a process requiring an existing or historic user to prove the maximum annual amount of groundwater that the user applied to a beneficial use during the period from June 1, 1972, to December 31, 1991, or January 1, 1992, to January 7, 2003.

(c) Authorizes a district, in implementing Subsection (b), for a user who produced groundwater only within the final year of the period established under Subsection (b)(2), to issue a permit for existing or historic use based on an

extrapolation of the user's beneficial use of groundwater to the amount that would have been used in a full calendar year for the same beneficial use.

(d) Requires a district, if the district limits or reduces total permitted production within its boundaries in a manner consistent with its certified groundwater district management plan under Section 36.1072, to limit or reduce the amount of permitted production of groundwater through proportionate reductions that will apply equally among classes of users in the following order, with all limitations or reductions that can be made in one class being made in that class before proceeding with limitations or reductions in the next subsequent class: new users, except as provided by Subdivision (2), the class of users described by Subsections (b)(1) and (c), or any new user who was issued a permit by the district on or before May 1, 2003, for the amount recognized in the permit, and the class of users described by Subsection (b)(2).

SECTION 2. Effective date: immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, or the 91st day after the last day of the legislative session.