

By: Hope

H.B. No. 2950

Substitute the following for H.B. No. 2950:

By: Puente

C.S.H.B. No. 2950

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the powers of a groundwater conservation district
3 protecting the historic use of groundwater.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 36.113, Water Code, is amended by adding
6 Subsections (h), (i), and (j) to read as follows:

7 (h) In implementing Subsection (e) or Section 36.116(b), a
8 district may require an existing or historic user to prove the
9 maximum annual amount of groundwater that the user applied to a
10 beneficial use during a reasonable period established by the
11 district that ends on or before the date on which the district
12 publishes notice or adopts rules protecting existing or historic
13 users under Subsection (e) or Section 36.116(b).

14 (i) In implementing Subsection (h), a district shall:

15 (1) for a user who produced groundwater for only part
16 of the final year of the period established under Subsection (h),
17 issue a permit for existing or historic use based on an
18 extrapolation of the user's beneficial use of groundwater to the
19 amount that would have been used in a full calendar year for the
20 same beneficial use;

21 (2) for use based on agricultural irrigation, issue a
22 permit based on:

23 (A) the maximum annual amount of groundwater
24 actually used during the period established under Subsection (h);

1 or

2 (B) the acreage irrigated during the period
3 established under Subsection (h); or

4 (3) for an electric utility, a power generation
5 company, or retail electric provider as defined by Section 31.002,
6 Utilities Code, issue a permit based on:

7 (A) the amount actually used as computed under
8 and for the period established under Subsection (h) or Subdivision
9 (1) of this subsection; or

10 (B) an amount necessary to annually provide
11 sufficient groundwater for cooling, boiler make-up, and potable
12 purposes for use at an existing or planned power generation
13 facility using land or the right to produce groundwater from land
14 that was acquired by the electric utility, power generation
15 company, or retail electric provider before May 1, 2003, to supply
16 water to power generation facilities that on that date existed or
17 were planned for future construction.

18 (j) An annual report of groundwater use previously
19 submitted to a state agency is admissible as evidence of existing or
20 historic use under Subsection (h) or (i).

21 SECTION 2. Subchapter D, Chapter 36, Water Code, is amended
22 by adding Section 36.1132 to read as follows:

23 Sec. 36.1132. DEFINED HISTORIC USE PERIODS FOR CERTAIN
24 DISTRICTS. (a) This section applies only to a groundwater
25 conservation district created under Section 59, Article XVI, Texas
26 Constitution, that:

27 (1) is adjacent to a district created under Chapter

1 626, Acts of the 73rd Legislature, Regular Session, 1993;

2 (2) has within its boundaries a part of an aquifer that
3 is regulated under Chapter 626, Acts of the 73rd Legislature,
4 Regular Session, 1993; and

5 (3) is not regulated under Chapter 626, Acts of the
6 73rd Legislature, Regular Session, 1993.

7 (b) In implementing Section 36.113(e) or 36.116(b), and
8 notwithstanding the periods described under Section 36.113(h), a
9 district shall require an existing or historic user to prove the
10 maximum annual amount of groundwater that the user applied to a
11 beneficial use during the period from:

12 (1) June 1, 1972, to December 31, 1991; or

13 (2) January 1, 1992, to January 7, 2003.

14 (c) In implementing Subsection (b), for a user who produced
15 groundwater for only part of the final year of the period
16 established under Subsection (b)(2), a district shall issue a
17 permit for existing or historic use based on an extrapolation of the
18 user's beneficial use of groundwater to the amount that would have
19 been used in a full calendar year for the same beneficial use.

20 (d) If a district limits or reduces total permitted
21 production within its boundaries in a manner consistent with its
22 certified groundwater district management plan under Section
23 36.1072, the district shall limit or reduce the amount of permitted
24 production of groundwater through proportionate reductions that
25 will apply equally among classes of users in the following order,
26 with all limitations or reductions that can be made in one class
27 being made in that class before proceeding with limitations or

1 reductions in the next subsequent class:

- 2 (1) new users, except as provided by Subdivision (2);
- 3 (2) the class of users described by Subsections (b)(1)
4 and (c), or any new user who was issued a permit by the district on
5 or before May 1, 2003, for the amount recognized in the permit; and
6 (3) the class of users described by Subsection (b)(2).

7 SECTION 3. (a) The legislature finds that:

8 (1) groundwater conservation districts have existing
9 statutory authority to protect existing or historic use under
10 Sections 36.113(e) and 36.116(b), Water Code;

11 (2) in implementing Sections 36.113(e) and 36.116(b),
12 Water Code, it is important that groundwater conservation
13 districts, in the conservation and management of groundwater, adopt
14 precise rules regarding existing or historic use of groundwater,
15 and that those rules include definite time periods during which
16 existing or historic use must be proven; and

17 (3) it will benefit the state and its citizens to set
18 express statutory guidelines that clarify the ability of
19 groundwater conservation districts to define and identify existing
20 or historic use periods.

21 (b) The changes in law made by this Act do not:

22 (1) limit the express or implied powers that
23 groundwater conservation districts had before the effective date of
24 this Act to implement Sections 36.113(e) and 36.116(b), Water Code,
25 using reasonable time periods during which existing or historic use
26 must be proven by a permit applicant; or

27 (2) invalidate rules lawfully adopted by a groundwater

1 conservation district before the effective date of this Act that
2 use those reasonable time periods.

3 SECTION 4. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2003.