

1-1 By: Brimer S.B. No. 884
1-2 (In the Senate - Filed March 5, 2003; March 11, 2003, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 22, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 April 22, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 884 By: Brimer

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to county authority to regulate the placement of water
1-11 wells in unincorporated areas of the county; providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 240, Local Government Code, is amended
1-14 by adding Subchapter C to read as follows:

1-15 SUBCHAPTER C. COUNTY REGULATION OF WATER WELLS

1-16 Sec. 240.041. DEFINITION. In this subchapter, "on-site
1-17 sewage disposal system" has the meaning assigned by Section
1-18 366.002, Health and Safety Code.

1-19 Sec. 240.042. AUTHORITY TO REGULATE PLACEMENT OF WATER
1-20 WELLS. (a) The commissioners court of a county by order may
1-21 regulate the placement of private water wells in the unincorporated
1-22 area of the county to prevent:

1-23 (1) the contamination of a well from an on-site sewage
1-24 disposal system; and

1-25 (2) rendering an on-site sewage disposal system that
1-26 was in place before the well was drilled out of compliance with
1-27 applicable law because of the placement of the well.

1-28 (b) A commissioners court that decides to regulate the
1-29 placement of private water wells under this subchapter by order
1-30 shall adopt rules governing the placement of a water well in
1-31 relation to an existing on-site sewage disposal system and
1-32 enforcement of those rules. The rules must require:

1-33 (1) a person desiring to drill a private water well to:

1-34 (A) notify the county health officer or an
1-35 official designated by the commissioners court of the intent to
1-36 drill the well; and

1-37 (B) include with the notice a diagram showing the
1-38 location of the well and its distance from any nearby on-site sewage
1-39 disposal system; and

1-40 (2) the county health officer or an official
1-41 designated by the commissioners court to:

1-42 (A) review the notice and diagram; and

1-43 (B) approve the drilling of the well if placement
1-44 of the well will not violate rules adopted by the Texas Commission
1-45 on Environmental Quality under Subchapter C, Chapter 341, Health
1-46 and Safety Code, or Chapter 366, Health and Safety Code.

1-47 Sec. 240.043. NOTICE. (a) Before a regulation adopted
1-48 under Section 240.042 may take effect, the commissioners court of
1-49 the county must publish notice of the adoption of the regulation in
1-50 a newspaper of general circulation in the county.

1-51 (b) The notice must:

1-52 (1) include:

1-53 (A) a brief summary of the regulation; and

1-54 (B) a statement that the full text of the
1-55 regulation is on file in the office of the county clerk; and

1-56 (2) be published on two separate dates.

1-57 (c) The regulation may not take effect until after the 14th
1-58 day after the date of the second publication as provided by
1-59 Subsection (b)(2).

1-60 Sec. 240.044. INSPECTION. A county health officer or an
1-61 official designated by the commissioners court may inspect a
1-62 proposed private water well site to ensure that it complies with the
1-63 requirements of this subchapter and county rules adopted under this

2-1 subchapter.

2-2 Sec. 240.045. COMPLIANCE REQUIRED. A person may not drill a
2-3 private water well in a county that has chosen to regulate the
2-4 placement of private water wells under this subchapter unless the
2-5 placement of the well complies with this subchapter and applicable
2-6 rules and has been approved by the county health officer or an
2-7 official designated by the commissioners court.

2-8 Sec. 240.046. OFFENSE; PENALTY. A person who violates this
2-9 subchapter or a county ordinance adopted under this subchapter
2-10 commits an offense. An offense under this section is a Class C
2-11 misdemeanor.

2-12 Sec. 240.047. EXCEPTIONS. This subchapter does not apply
2-13 to a private water well drilled on a parcel of land that:

2-14 (1) is 10 acres or more in size; or

2-15 (2) is qualified open-space land, as defined by
2-16 Section 23.51, Tax Code.

2-17 SECTION 2. This Act takes effect September 1, 2003.

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