

By: Armbrister

S.B. No. 1377

A BILL TO BE ENTITLED

AN ACT

relating to landowners of groundwater whose land is enrolled or participating in a government conservation program.

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

SECTION 1. Section 36.002, Water Code, is amended to read as follows:

Sec. 36.002. OWNERSHIP OF GROUNDWATER. The ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, and nothing in this code shall be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, except as those rights may be limited or altered by rules promulgated by a district. A rule promulgated by a district may not discriminate against owners of land or their lessees and assigns whose land is enrolled or participating in the federal conservation reserve program.

SECTION 2. Subsection (a), Section 36.101, Water Code, is amended to read as follows:

(a) A district may make and enforce rules, including rules limiting groundwater production based on tract size or the spacing of wells, to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, prevent degradation of water quality, or prevent waste of groundwater and to carry out the powers and duties provided by this chapter. During the rulemaking

1 process the board shall consider all groundwater uses and needs and
2 shall develop rules which are fair and impartial and that do not
3 discriminate between land in production and land enrolled or
4 participating in the federal conservation reserve program, except
5 as expressly authorized by this chapter.

6 SECTION 3. Section 36.113, Water Code, is amended by adding
7 Subsection (h) to read as follows:

8 (h) In issuing a permit for an existing or historic use, a
9 district may not discriminate against land or wells on land
10 enrolled or participating in the federal conservation reserve
11 program. Notwithstanding Section 36.002 or 36.101, a district that
12 adopts rules related to the protection of existing or historic use
13 which authorize a participant in the federal conservation reserve
14 program to establish existing or historic use based upon the
15 participant's groundwater production during a period of time prior
16 to the participant entering the federal conservation reserve
17 program shall not be considered discriminatory against such a
18 participant for purposes of this chapter.

19 SECTION 4. (a) This Act takes effect September 1, 2003.

20 (b) Except as provided by Subsection (c) of this section,
21 the change in law made by this Act to Section 36.002, Subsection
22 (a), Section 36.101, and Section 36.113, Water Code, applies to all
23 rules adopted by a groundwater conservation district on or after
24 the effective date of this Act.

25 (c) The change in law made by this Act to Section 36.002,
26 Subsection (a), Section 36.101, and Section 36.113, Water Code,
27 does not apply to rules adopted by the Edwards Aquifer Authority.