

BILL ANALYSIS

C.S.H.B. 2424
By: Puente
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Groundwater conservation districts are authorized to protect historic use in adopting permit rules managing or limiting production. C.S.H.B. 2424 clarifies the limited extent to which groundwater districts can protect historic use, establishes the criteria districts must use in determining whether an applicant qualifies as a historic user, prohibits discrimination against landowner applicants participating in a federal conservation program, and prohibits the district from allowing a conversion of a historic use permit to a new purpose without a permit amendment and compliance with limits applicable to other non-historic users.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1: In Sec. 36.113, Water Code, C.S.H.B. 2424 amends Subsections (a), (c) and (e) and adds Subsections (h) through (m). Amendments to Subsections (a), (c) and (e) clarify that if permits are required for operation of a well they must include the purpose of use and that historic use includes existing use.

Subsection (h) requires a permit amendment for a change of use for a historic use permit, requires the district to grant the permit amendment, subject to rules that apply to other permits not based on historic use within the district.

Subsection (i) provides that historic use shall be measured based on evidence of the maximum amount of water beneficially used without waste during any one year before the district was created or before the effective date of any rule preserving historic or existing use, and only for the purpose of use and amount beneficially used without waste in that year.

Subsections (j) through (m) prohibit a district from discriminating between land irrigated for production and land participating in a federal conservation program in issuing a permit for an existing or historic use. Subsection (k) specifies that a decision by a district is void if the district makes a permitting decision that is not in accordance with evidence requirements contained in subsection (i) above or discriminates between land irrigated for production and land participating in federal conservation programs if the district would have reached a different decision based on the evidence or if the district had treated the land participating in the federal conservation program the same as land irrigated for production.

C.S.H.B. 2424 also requires that, upon application by an affected landowner, lessee or assignee, a district must reconsider a decision rendered void as discussed above and base its decision either on evidence required under the Act or on the equal treatment of land participating in a federal conservation program and land irrigated for production, depending on the claim. The district must render its reconsidered decision and notify the applicant within 90 days of receiving the application.

SECTION 2. C.S.H.B. 2424 amends Section 36.116 (b) of the Water Code to refer back to the new limitations contained in Section 36.113 as outlined in SECTION 1.

SECTION 3. C.S.H.B. 2424 requires that this Act does not apply to applications or permits issued on the basis of an application filed before January 1, 2005, the renewal or amendment of a C.S.H.B. 2424 79(R)

permit issued on the basis of an application filed before January 1, 2005, a permit issued under rules in effect as of January 1, 2005, or a renewal or amendment to a permit issued under rules in effect as of January 1, 2005. The substitute also provides that the changes contained in Sections 36.113(h) and (i) and Section 36.116(b), Water Code as discussed above, apply prospectively except in the Hudspeth Underground Water Conservation District.

SECTION 4. Effective Date of September 1, 2005.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2424 clarifies the intent of Subsections (h) and (i) and eliminates place of use as a change requiring an amendment. Committee substitute to H.B. 2424 substitutes new subsections (j), (k), (l) and (m). and adds a new section 3 clarifying that the changes in the legislation apply prospectively except in the Hudspeth Underground Water Conservation District. The substitute does not contain language in the original filed bill that would have required that a historic use permit granted by a district be limited to the purpose and place of use stated in the permit application, be subject to cancellation for non-use, and be consistent with the district's regional management plan.

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