

BILL ANALYSIS

C.S.S.B. 343
By: Brimer
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, populous counties have no mechanism to regulate the placement of water wells relative to septic systems. Consequently, wells have been placed in locations that adversely impact the property owner or neighbor, often rendering existing septic systems "out of compliance" and exposing water sources to possible contamination. A simple review procedure would protect the property rights and drinking water quality of the proposed well owners and their neighbors.

C.S.S.B. 343 authorizes commissioners courts in counties with populations of 1.4 million or more to adopt rules to address the placement of water wells prior to drilling.

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. Amends Chapter 240, Local Government Code, by adding Subchapter C, as follows:

SUBCHAPTER C. REGULATION OF WATER WELLS IN CERTAIN COUNTIES

Sec. 240.041. DEFINITION. Defines "on-site sewage disposal system."

Sec. 240.042. AUTHORITY TO REGULATE PLACEMENT OF WATER WELLS.

(a) Authorizes a commissioners court of a county with a population of 1.4 million or more to regulate, by order, the placement of private water wells in the unincorporated area of the county to prevent certain occurrences.

(b) Requires a commissioners court that decides to regulate the placement of private water wells to adopt rules governing the placement of a water well in relation to an existing on-site sewage disposal system or drilling into a contaminated groundwater plume or aquifer, and enforcement of those rules.

The rules must require a person desiring to drill a private water well, or the owner of the land on which the well is to be located, to notify the county health officer or an official designated by the commissioners court of the intent to drill the well and include with the notice a diagram showing the proposed location of the well and its distance from any on-site sewage disposal system that is located within 100 feet of the well.

The rules must also require the county health officer or an official designated by the commissioners court to review the notice and diagram, and not later than the 10th business day after the date the notice is received, approve the drilling of the well if the well will be not drilled into or through an aquifer or groundwater plume that has been confirmed as contaminated by the Texas Commission on Environmental Quality or the United States Environmental Quality Protection Agency and placement of the well will not violate the rules adopted by the Texas Commission of Licensing and Regulation under Chapters 1901 and 1902,

Occupations Code, or disapprove the drilling of the well. The county health officer or official must also provide written acknowledgement to the person desiring to drill the well and to the owner of the land on which the well is to be located that states that the requirements of the rule have been met and whether the drilling of the well has been approved or disapproved.

Sec. 240.043. NOTICE. Requires the commissioners court, before a regulation adopted under Section 240.042 may take effect, to publish notice of the adoption of the regulation in a newspaper of general circulation in the county. Sets forth requirements for the notice. Prohibits the regulation from taking effect until after the 14th day after the date of the required second publication.

Sec. 240.044. FEE. Authorizes the county to impose a placement review fee in the amount of not more than \$50 to be paid by the person drilling the well. Requires fees collected to be deposited to the county's general fund to be used only for the administration and enforcement of this subchapter.

Sec. 240.045. INSPECTION. Authorizes a county health officer or official designated by the commissioners court to inspect a proposed private water well site to ensure that it complies with the requirements of this subchapter and county rules adopted under this subchapter.

Sec. 240.046. COMPLIANCE REQUIRED. Prohibits a person from drilling a private water well in a county that has chosen to regulate the placement of private water wells unless the placement of the well complies with this subchapter and applicable rules and has been approved by the county health officer or an official designated by the commissioners court.

Sec. 240.047. OFFENSE; PENALTY. Provides that a person who drills a private water well without possessing a written acknowledgment, or copy of a written acknowledgment, under Section 240.042 by the county health officer or official approving the drilling of the well commits an offense. An offense under this section is a Class C misdemeanor. Requires a county to report all violations to the Texas Department of Licensing and Regulation.

Sec. 240.048. EXCEPTIONS. Provides that this subchapter is inapplicable to private water wells drilled on a parcel of land that is 10 acres or more in size, is qualified open-space land, within the boundaries of a groundwater conservation district, within the boundaries of a subsidence district other than the Harris-Galveston Subsidence District, or is incident to the exploration, development, or production of oil, gas, or other minerals. This subchapter also does not apply to public water systems that have been permitted under rules adopted by the Texas Commission on Environmental Quality.

SECTION 2. Amends Section 1305.003 (a), Occupations Code, to clarify that water well drillers are not subject to certain licensing requirements if they are engaged in the installation, maintenance, alteration or repair of well pumps and equipment in accordance with Chapter 1902 of the Occupations Code.

SECTION 3. Effective Date.

EFFECTIVE DATE

The Act takes effect September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute differs from the original version of the bill in that it requires a written acknowledgment to be provided to the landowner and the person desiring to drill the well. The acknowledgment will state whether the provisions adopted under subdivision (1) have been satisfied and whether or not the drilling of the well has been approved or disapproved.

The diagram showing the location of the well and its distance from any on-site sewage disposal system should depict those located within 100 feet of the well rather than 150 feet of the well as stated in the original version of the bill.

The original version of the bill provided that any violation of the chapter is a Class C misdemeanor. The substitute provides that a Class C offense is committed only if a person drills a private water well without possessing a written acknowledgement, or a copy of the acknowledgement, as described by Section 240.042.

The substitute version provides that any Class C offense must be reported to the Texas Department of Licensing and Regulation.

The substitute version provides an additional exemption for any public water system that has been permitted under rules adopted by the Texas Commission on Environmental Quality.

The substitute version provides clarifying language which ensures that water well drillers are not subject to certain licensing requirements if they are engaged in the installation, maintenance, alteration or repair of well pumps and equipment in accordance with Chapter 1902 of the Occupations Code.