

## **BILL ANALYSIS**

Senate Research Center  
79R1664 SMH-D

S.B. 352  
By: Madla et al.  
Natural Resources  
3/28/2005  
As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Current law is unclear on the authority of certain state agencies and the commissioners of those agencies to lease groundwater from state-owned lands. As proposed, S.B. 352 clearly defines how groundwater from state-owned lands should be leased.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the School Land Board in SECTION 4 (Section 51.132, Natural Resources Code) of this bill. Rulemaking authority previously granted to a groundwater conservation district is modified in SECTION 7 (Section 36.101, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 11, Natural Resources Code, by adding Section 11.087, as follows:

Sec. 11.087. PROHIBITION ON EXPORTATION OF GROUNDWATER PRODUCED FROM STATE-OWNED LAND. Prohibits a person from exporting from this state to a foreign country groundwater produced from state-owned land.

SECTION 2. Amends Section 32.012, Natural Resources Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Adds a citizen of the state appointed by the lieutenant governor and a citizen of the state appointed by the governor with the advice and consent of the senate from a list of nominees submitted by the speaker of the house of representatives to the membership of the School Land Board (board). Makes nonsubstantive changes.

(d) Authorizes the governor, in making the appointment of a citizen of the state to the board, to reject one or more of the nominees on a list submitted by the speaker of the house of representatives and to request a new list of different nominees.

SECTION 3. Amends Section 51.121, Natural Resources Code, by adding Subsections (f) and (g), as follows:

(f) Prohibits the commissioner of the General Land Office (commissioner), notwithstanding Subsection (a) (authorizing the commissioner to lease unsold public school land in certain circumstances), from leasing unsold public school land under this subchapter for a term of more than 10 years or for an indefinite term unless the board approves the lease.

(g) Prohibits the commissioner, notwithstanding Subsection (a), from leasing the right to produce groundwater from unsold public school land. Provides that a lease of the right to produce groundwater from unsold public school land is governed by Section 51.132.

SECTION 4. Amends Subchapter D, Chapter 51, Natural Resources Code, by adding Section 51.132, as follows:

Sec. 51.132. LEASE OF RIGHT TO PRODUCE GROUNDWATER. (a) Authorizes the board to lease the right to produce groundwater from unsold public school land only as provided by this section. Provides that the other provisions of this subchapter apply to leases entered into under this section to the extent that those provisions do not conflict with this section or Section 51.121(g).

(b) Requires the board to adopt clear and detailed rules governing the lease of the right to produce groundwater from unsold public school land. Sets forth what provisions the rules must require.

(c) Requires the board, before filing notice of the proposed rules with the secretary of state for publication in the Texas Register, to notify the attorney general, certain other government entities, and each member of the legislature that notice of the proposed rules will be published.

(d) Requires a lease of the right to produce groundwater from unsold public school land to be awarded through competitive bidding unless certain conditions apply.

SECTION 5. Amends Subchapter C, Chapter 66, Education Code, by adding Section 66.46, as follows:

Sec. 66.46. LEASE OF RIGHT TO PRODUCE GROUNDWATER. Requires a lease of the right to produce groundwater from lands set aside and appropriated to, or acquired by, the permanent university fund to be awarded through competitive bidding unless certain conditions apply.

SECTION 6. Amends Sections 16.053(c) and (e), Water Code, as follows:

(c) Provides that if a regional water planning area includes land dedicated to the permanent university fund, the executive director of University Lands--West Texas Operations serves as a nonvoting member of the regional water planning group for that area.

(e) Requires each regional water planning group to submit to the Texas Water Development Board a regional water plan that includes consideration of all potentially feasible water management strategies including development of new water supplies, including, if appropriate, groundwater produced from land dedicated to the permanent school fund or permanent university fund.

SECTION 7. Amends Section 36.101(a), Water Code, to provide that rules adopted by a groundwater conservation district apply to wells located on land dedicated to the permanent school fund or permanent university fund or located on land formerly dedicated to the permanent school fund or permanent university fund in which the state has reserved the right to produce groundwater.

SECTION 8. Requires the lieutenant governor and the governor to make appointments to the School Land Board under Section 32.012, Natural Resources Code, as amended by this Act, as soon as possible after the effective date of this Act. Provides that each member's term expires August 31, 2007.

SECTION 9. Effective date: September 1, 2005.