

By: Puente

H.B. No. 2424

Substitute the following for H.B. No. 2424:

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C.S.H.B. No. 2424

A BILL TO BE ENTITLED

AN ACT

relating to the consideration of historic or existing use in the regulation of pumping by a groundwater conservation district.

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

SECTION 1. Section 36.113, Water Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (h), (i), (j), (k), (l), and (m) to read as follows:

(a) A district shall require permits for the drilling, equipping, ~~or~~ completing, or operating of wells or for substantially altering the size of wells or well pumps.

(c) A district may require that the following be included in the permit application:

(1) the name and mailing address of the applicant and the owner of the land on which the well will be located;

(2) if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed purpose of use;

(3) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

(4) a water conservation plan or a declaration that the applicant will comply with the district's management plan;

(5) the location of each well and the estimated rate at which water will be withdrawn;

(6) a water well closure plan or a declaration that the

1 applicant will comply with well plugging guidelines and report
2 closure to the commission; and

3 (7) a drought contingency plan.

4 (e) The district may impose more restrictive permit
5 conditions on new permit applications and increased use by historic
6 or existing users if the limitations:

7 (1) apply to all subsequent new permit applications
8 and increased use by historic or existing users, regardless of type
9 or location of use;

10 (2) bear a reasonable relationship to the existing
11 district management plan; and

12 (3) are reasonably necessary to protect existing use.

13 (h) A district shall provide that a change in the purpose of
14 use under a permit that was granted for historic or existing use may
15 not be made without a permit amendment. The district shall grant a
16 permit amendment changing the purpose of use on application of the
17 holder of a permit that was granted for historic or existing use,
18 and the rules that apply to the operation of a well under any other
19 permit issued by the district not based on historic or existing use
20 apply to the operation of the well under the amended permit.

21 (i) A district that authorizes a permit for historic or
22 existing use shall issue that type of permit based on evidence of
23 the maximum amount of water beneficially used without waste during
24 any one year before the district was created, or any one year before
25 the effective date of any rule preserving historic or existing use,
26 and only for the purpose of use and amount beneficially used without
27 waste in that year.

1 (j) In issuing a permit for an existing or historic use, a
2 district may not discriminate between land that is irrigated for
3 production and land or wells on land enrolled or participating in a
4 federal conservation program.

5 (k) A permitting decision by a district is void if:

6 (1) the district makes its decision in violation of
7 Subsection (i) or (j); and

8 (2) the district would have reached a different
9 decision if the district had:

10 (A) based its decision on the evidence required
11 under Subsection (i); or

12 (B) treated land or wells on land enrolled or
13 participating in a federal conservation program the same as land
14 irrigated for production.

15 (l) On the application of an affected owner of land or the
16 owner's lessee or assigns, the district shall reconsider a decision
17 that violates Subsection (i) and base its decision on the evidence
18 required under Subsection (i). Not later than the 90th day after
19 the date the district receives an application under this
20 subsection, the district shall notify the owners of land in the
21 district of its reconsidered decision.

22 (m) On the application of an affected owner of land or the
23 owner's lessee or assigns, the district shall reconsider a decision
24 that violates Subsection (j) and base its decision on the equal
25 treatment of land or wells on land enrolled or participating in a
26 federal conservation program and land that is irrigated for
27 production. Not later than the 90th day after the date the district

1 receives an application under this subsection, the district shall
2 notify the applicant of its reconsidered decision.

3 SECTION 2. Section 36.116(b), Water Code, is amended to
4 read as follows:

5 (b) In promulgating any rules limiting groundwater
6 production, the district may preserve historic or existing use
7 before the effective date of the rules to the maximum extent
8 practicable consistent with the district's comprehensive
9 management plan under Section 36.1071 and as provided by Section
10 36.113.

11 SECTION 3. (a) Except as provided by Subsection (b), the
12 changes in law made under Sections 36.113(h) and (i) and Section
13 36.116(b), Water Code, as amended by this Act, do not apply to:

14 (1) an application or permit issued on the basis of an
15 application filed before January 1, 2005;

16 (2) a renewal or amendment of a permit issued on the
17 basis of an application filed before January 1, 2005;

18 (3) a permit issued under rules in effect as of January
19 1, 2005; or

20 (4) a renewal or amendment to a permit issued under
21 rules in effect as of January 1, 2005.

22 (b) The changes in law made by Sections 36.113(h) and (i)
23 and Section 36.116(b), Water Code, as amended by this Act, apply to:

24 (1) an application filed with the Hudspeth County
25 Underground Water Conservation District No. 1 that is pending on
26 the effective date of this Act; or

27 (2) a permit decision by the Hudspeth County

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1 Underground Water Conservation District No. 1 that is not final on
2 the effective date of this Act.

3 SECTION 4. This Act takes effect September 1, 2005.