

By: Brimer

S.B. No. 343

A BILL TO BE ENTITLED

AN ACT

relating to county authority to regulate the placement of water wells in unincorporated areas of the county; providing a penalty.

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

SECTION 1. Chapter 240, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. REGULATION OF WATER WELLS IN CERTAIN COUNTIES

Sec. 240.041. DEFINITION. In this subchapter, "on-site sewage disposal system" has the meaning assigned by Section 366.002, Health and Safety Code.

Sec. 240.042. AUTHORITY TO REGULATE PLACEMENT OF WATER WELLS. (a) The commissioners court of a county with a population of 1.4 million or more by order may regulate the placement of private water wells in the unincorporated area of the county to prevent:

(1) the contamination of a well from an on-site sewage disposal system;

(2) rendering an on-site sewage disposal system that was in place before the well was drilled out of compliance with applicable law because of the placement of the well; and

(3) drilling into a contaminated groundwater plume or aquifer.

(b) A commissioners court that decides to regulate the placement of private water wells under this subchapter by order

1 shall adopt rules governing the placement of a water well in  
2 relation to an existing on-site sewage disposal system or drilling  
3 into a contaminated groundwater plume or aquifer and enforcement of  
4 those rules. The rules must require:

5 (1) a person desiring to drill a private water well to:

6 (A) notify the county health officer or an  
7 official designated by the commissioners court of the intent to  
8 drill the well; and

9 (B) include with the notice a diagram showing the  
10 location of the well and its distance from any on-site sewage  
11 disposal system that is located within 150 feet of the well; and

12 (2) the county health officer or an official  
13 designated by the commissioners court to:

14 (A) review the notice and diagram; and

15 (B) not later than the 10th business day after  
16 the date the notice is received, approve the drilling of the well if  
17 the well will not be drilled into or through an aquifer or  
18 groundwater plume that has been confirmed as contaminated by the  
19 Texas Commission on Environmental Quality or the United States  
20 Environmental Protection Agency and placement of the well will not  
21 violate the rules adopted by the Texas Commission of Licensing and  
22 Regulation under Chapters 1901 and 1902, Occupations Code.

23 Sec. 240.043. NOTICE. (a) Before a regulation adopted  
24 under Section 240.042 may take effect, the commissioners court of  
25 the county must publish notice of the adoption of the regulation in  
26 a newspaper of general circulation in the county.

27 (b) The notice must:

1           (1) include:

2                   (A) a brief summary of the regulation; and

3                   (B) a statement that the full text of the  
4 regulation is on file in the office of the county clerk; and

5           (2) be published on two separate dates.

6           (c) The regulation may not take effect until after the 14th  
7 day after the date of the second publication as provided by  
8 Subsection (b)(2).

9           Sec. 240.044. FEE. The county may impose a placement review  
10 fee in the amount of not more than \$50 to be paid by the person  
11 drilling the well. Fees collected under this section shall be  
12 deposited to the county's general fund to be used only for the  
13 administration and enforcement of this subchapter.

14           Sec. 240.045. INSPECTION. A county health officer or an  
15 official designated by the commissioners court may inspect a  
16 proposed private water well site to ensure that it complies with the  
17 requirements of this subchapter and county rules adopted under this  
18 subchapter.

19           Sec. 240.046. COMPLIANCE REQUIRED. A person may not drill a  
20 private water well in a county that has chosen to regulate the  
21 placement of private water wells under this subchapter unless the  
22 placement of the well complies with this subchapter and applicable  
23 rules and has been approved by the county health officer or an  
24 official designated by the commissioners court.

25           Sec. 240.047. OFFENSE; PENALTY. A person who violates this  
26 subchapter or a county ordinance adopted under this subchapter  
27 commits an offense. An offense under this section is a Class C

1 misdemeanor.

2 Sec. 240.048. EXCEPTIONS. This subchapter does not apply  
3 to a private water well drilled:

4 (1) on a parcel of land that:

5 (A) is 10 acres or more in size; or

6 (B) is qualified open-space land, as defined by  
7 Section 23.51, Tax Code;

8 (2) within the boundaries of a groundwater  
9 conservation district;

10 (3) within the boundaries of a subsidence district  
11 other than the Harris-Galveston Coastal Subsidence District; or

12 (4) incident to the exploration, development, or  
13 production of oil, gas, or other minerals.

14 SECTION 2. This Act takes effect September 1, 2005.