

By: Brimer

S.B. No. 343

Substitute the following for S.B. No. 343:

By: Puente

C.S.S.B. No. 343

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of the placement of water wells and the  
3 installation and maintenance of well pumps and equipment; providing  
4 a penalty.

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

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

8 SUBCHAPTER C. REGULATION OF WATER WELLS IN CERTAIN COUNTIES

9 Sec. 240.041. DEFINITION. In this subchapter, "on-site  
10 sewage disposal system" has the meaning assigned by Section  
11 366.002, Health and Safety Code.

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

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

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

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

24 (b) A commissioners court that decides to regulate the

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

6 (1) a person desiring to drill a private water well, or  
7 the owner of the land on which the well is to be located, to:

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

11 (B) include with the notice a diagram showing the  
12 proposed location of the well and its distance from any on-site  
13 sewage disposal system that is located within 100 feet of the well;  
14 and

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

17 (A) review the notice and diagram;

18 (B) not later than the 10th business day after  
19 the date the notice is received:

20 (i) approve the drilling of the well if the  
21 well will not be drilled into or through an aquifer or groundwater  
22 plume that has been confirmed as contaminated by the Texas  
23 Commission on Environmental Quality or the United States  
24 Environmental Protection Agency and placement of the well will not  
25 violate the rules adopted by the Texas Commission of Licensing and  
26 Regulation under Chapters 1901 and 1902, Occupations Code; or

27 (ii) disapprove the drilling of the well;

1 and

2 (C) provide a written acknowledgment to the  
3 person desiring to drill the well and to the owner of the land on  
4 which the well is to be located that states:

5 (i) that the requirements of the rules  
6 adopted under Subdivision (1) have been satisfied; and

7 (ii) whether the drilling of the well has  
8 been approved or disapproved.

9 Sec. 240.043. NOTICE. (a) Before rules adopted under  
10 Section 240.042 may take effect, the commissioners court of the  
11 county must publish notice of the adoption of the rules in a  
12 newspaper of general circulation in the county.

13 (b) The notice must:

14 (1) include:

15 (A) a brief summary of the rules; and

16 (B) a statement that the full text of the rules is  
17 on file in the office of the county clerk; and

18 (2) be published on two separate dates.

19 (c) The rules may not take effect until after the 14th day  
20 after the date of the second publication as provided by Subsection  
21 (b)(2).

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

27 Sec. 240.045. INSPECTION. A county health officer or an

1 official designated by the commissioners court may inspect a  
2 proposed private water well site to ensure that it complies with the  
3 requirements of this subchapter and county rules adopted under this  
4 subchapter.

5 Sec. 240.046. COMPLIANCE REQUIRED. A person may not drill a  
6 private water well in a county that has chosen to regulate the  
7 placement of private water wells under this subchapter unless the  
8 placement of the well complies with this subchapter and applicable  
9 rules and has been approved by the county health officer or an  
10 official designated by the commissioners court.

11 Sec. 240.047. OFFENSE; PENALTY. (a) A person who drills a  
12 private water well without possessing a written acknowledgment, or  
13 a copy of a written acknowledgment, under Section 240.042 by the  
14 county health officer or an official designated by the  
15 commissioners court approving the drilling of the well commits an  
16 offense. An offense under this section is a Class C misdemeanor.

17 (b) The county health officer or an official designated by  
18 the commissioners court shall report a citation issued under this  
19 section to the Texas Department of Licensing and Regulation.

20 Sec. 240.048. EXCEPTIONS. This subchapter does not apply  
21 to:

22 (1) a private water well drilled:

23 (A) on a parcel of land that:

24 (i) is 10 acres or more in size; or

25 (ii) is qualified open-space land, as  
26 defined by Section 23.51, Tax Code;

27 (B) within the boundaries of a groundwater

1 conservation district;

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

5 (D) incident to the exploration, development, or  
6 production of oil, gas, or other minerals; or

7 (2) a public water system that has been permitted  
8 under rules adopted by the Texas Commission on Environmental  
9 Quality.

10 SECTION 2. Section 1305.003(a), Occupations Code, is  
11 amended to read as follows:

12 (a) This chapter does not apply to:

13 (1) the installation of electrical equipment in a  
14 ship, watercraft other than a floating building, railway rolling  
15 stock, aircraft, or a motor vehicle other than a mobile home or  
16 recreational vehicle;

17 (2) the installation of electrical equipment  
18 underground in a mine and in self-propelled mobile surface mining  
19 machinery and its attendant electrical trailing cable;

20 (3) the installation of electrical equipment for  
21 generation, transformation, transmission, or distribution of power  
22 used exclusively to operate railway rolling stock or exclusively  
23 for signaling and communications purposes;

24 (4) the installation, maintenance, alteration, or  
25 repair of communications equipment provided by a  
26 telecommunications provider;

27 (5) the installation, maintenance, alteration, or

1 repair of electrical equipment under the exclusive control of an  
2 electric utility, electric cooperative, or municipally owned  
3 utility and used for communications or metering, or for the  
4 generation, control, transformation, transmission, and  
5 distribution of electrical energy, and located:

6 (A) in a building used exclusively by a utility  
7 for those purposes;

8 (B) outdoors on property owned or leased by the  
9 utility;

10 (C) on public highways, streets, roads, or other  
11 public rights-of-way; or

12 (D) outdoors by established rights in vaults or  
13 on private property;

14 (6) work not specifically regulated by a municipal  
15 ordinance that is performed in or on a dwelling by a person who owns  
16 and resides in the dwelling;

17 (7) work involved in the manufacture of electrical  
18 equipment;

19 (8) electrical maintenance work if:

20 (A) the work is performed by a person regularly  
21 employed as a maintenance person at the building or premises;

22 (B) the work is performed in conjunction with the  
23 business in which the person is employed; and

24 (C) the person does not engage in electrical work  
25 for the public;

26 (9) the installation, maintenance, alteration, or  
27 repair of electrical equipment or associated wiring under the

1 exclusive control of a gas utility and used for communications or  
2 metering or for the control, transmission, or distribution of  
3 natural gas;

4 (10) thoroughfare lighting, traffic signals,  
5 intelligent transportation systems, and telecommunications  
6 controlled by a governmental entity;

7 (11) electrical connections supplying heating,  
8 ventilation, and cooling and refrigeration equipment, including  
9 any required disconnect exclusively for the equipment, if the  
10 service is performed by a licensed air conditioning and  
11 refrigeration contractor under Chapter 1302;

12 (12) the design, installation, erection, repair, or  
13 alteration of Class 1, Class 2, or Class 3 remote control,  
14 signaling, or power-limited circuits, fire alarm circuits, optical  
15 fiber cables, or communications circuits, including raceways, as  
16 defined by the National Electrical Code;

17 (13) landscape irrigation installers, as necessary to  
18 perform the installation and maintenance of irrigation control  
19 systems, and landscapers, as necessary to perform the installation  
20 and maintenance of low-voltage exterior lighting and holiday  
21 lighting excluding any required power source;

22 (14) a person who is employed by and performs  
23 electrical work solely for a private industrial business, including  
24 a business that operates a chemical plant, petrochemical plant,  
25 refinery, natural gas plant, natural gas treating plant, pipeline,  
26 or oil and gas exploration and production operation;

27 (15) the installation, maintenance, alteration, or

1 repair of elevators, escalators, or related equipment, excluding  
2 any required power source, regulated under Chapter 754, Health and  
3 Safety Code;

4 (16) the installation, maintenance, alteration, or  
5 repair of equipment or network facilities provided or utilized by a  
6 cable operator, as that term is defined by 47 U.S.C. Section 522, as  
7 amended; ~~and~~

8 (17) the location, design, construction, extension,  
9 maintenance, and installation of on-site sewage disposal systems in  
10 accordance with Chapter 366, Health and Safety Code; and

11 (18) the installation, maintenance, alteration, or  
12 repair of well pumps and equipment in accordance with Chapter 1902.

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