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; and

(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.

(b) A commissioners court that decides to regulate the placement of private water wells under this subchapter by order shall adopt rules governing the placement of a water well in relation to an existing on-site sewage disposal system and

enforcement of those rules. The rules must require:

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

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

(B) include with the notice a diagram showing the location of the well and its distance from any on-site sewage disposal system that is located within 300 feet of the well; and

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

(A) review the notice and diagram; and

(B) approve the drilling of the well if placement of the well will not violate rules adopted by the Texas Commission on Environmental Quality under Subchapter C, Chapter 341, Health and Safety Code, or Chapter 366, Health and Safety Code.

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

(b) The notice must:

(1) include:

(A) a brief summary of the regulation; and

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

(2) be published on two separate dates.

(c) The regulation may not take effect until after the 14th day after the date of the second publication as provided by

Subsection (b)(2).

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

Sec. 240.045. INSPECTION. A county health officer or an official designated by the commissioners court may 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. A person may not drill a private water well in a county that has chosen to regulate the placement of private water wells under this subchapter 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. A person who violates this subchapter or a county ordinance adopted under this subchapter commits an offense. An offense under this section is a Class C misdemeanor.

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

(1) on a parcel of land that:

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

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

(2) within the boundaries of a groundwater conservation district.

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