

1-1 By: Brimer S.B. No. 343
1-2 (In the Senate - Filed February 3, 2005; February 7, 2005,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; April 4, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
1-6 April 4, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 343 By: Brimer

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to county authority to regulate the placement of water
1-11 wells in unincorporated areas of the county; providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 240, Local Government Code, is amended
1-14 by adding Subchapter C to read as follows:

1-15 SUBCHAPTER C. REGULATION OF WATER WELLS IN CERTAIN COUNTIES

1-16 Sec. 240.041. DEFINITION. In this subchapter, "on-site
1-17 sewage disposal system" has the meaning assigned by Section
1-18 366.002, Health and Safety Code.

1-19 Sec. 240.042. AUTHORITY TO REGULATE PLACEMENT OF WATER
1-20 WELLS. (a) The commissioners court of a county with a population
1-21 of 1.4 million or more by order may regulate the placement of
1-22 private water wells in the unincorporated area of the county to
1-23 prevent:

1-24 (1) the contamination of a well from an on-site sewage
1-25 disposal system;

1-26 (2) rendering an on-site sewage disposal system that
1-27 was in place before the well was drilled out of compliance with
1-28 applicable law because of the placement of the well; and

1-29 (3) drilling into a contaminated groundwater plume or
1-30 aquifer.

1-31 (b) A commissioners court that decides to regulate the
1-32 placement of private water wells under this subchapter by order
1-33 shall adopt rules governing the placement of a water well in
1-34 relation to an existing on-site sewage disposal system or drilling
1-35 into a contaminated groundwater plume or aquifer and enforcement of
1-36 those rules. The rules must require:

1-37 (1) a person desiring to drill a private water well to:
1-38 (A) notify the county health officer or an
1-39 official designated by the commissioners court of the intent to
1-40 drill the well; and

1-41 (B) include with the notice a diagram showing the
1-42 location of the well and its distance from any on-site sewage
1-43 disposal system that is located within 150 feet of the well; and

1-44 (2) the county health officer or an official
1-45 designated by the commissioners court to:

1-46 (A) review the notice and diagram; and

1-47 (B) not later than the 10th business day after
1-48 the date the notice is received, approve the drilling of the well if
1-49 the well will not be drilled into or through an aquifer or
1-50 groundwater plume that has been confirmed as contaminated by the
1-51 Texas Commission on Environmental Quality or the United States
1-52 Environmental Protection Agency and placement of the well will not
1-53 violate the rules adopted by the Texas Commission of Licensing and
1-54 Regulation under Chapters 1901 and 1902, Occupations Code.

1-55 Sec. 240.043. NOTICE. (a) Before a regulation adopted
1-56 under Section 240.042 may take effect, the commissioners court of
1-57 the county must publish notice of the adoption of the regulation in
1-58 a newspaper of general circulation in the county.

1-59 (b) The notice must:

1-60 (1) include:

1-61 (A) a brief summary of the regulation; and

1-62 (B) a statement that the full text of the
1-63 regulation is on file in the office of the county clerk; and

2-1 (2) be published on two separate dates.
2-2 (c) The regulation may not take effect until after the 14th
2-3 day after the date of the second publication as provided by
2-4 Subsection (b)(2).

2-5 Sec. 240.044. FEE. The county may impose a placement review
2-6 fee in the amount of not more than \$50 to be paid by the person
2-7 drilling the well. Fees collected under this section shall be
2-8 deposited to the county's general fund to be used only for the
2-9 administration and enforcement of this subchapter.

2-10 Sec. 240.045. INSPECTION. A county health officer or an
2-11 official designated by the commissioners court may inspect a
2-12 proposed private water well site to ensure that it complies with the
2-13 requirements of this subchapter and county rules adopted under this
2-14 subchapter.

2-15 Sec. 240.046. COMPLIANCE REQUIRED. A person may not drill a
2-16 private water well in a county that has chosen to regulate the
2-17 placement of private water wells under this subchapter unless the
2-18 placement of the well complies with this subchapter and applicable
2-19 rules and has been approved by the county health officer or an
2-20 official designated by the commissioners court.

2-21 Sec. 240.047. OFFENSE; PENALTY. A person who violates this
2-22 subchapter or a county ordinance adopted under this subchapter
2-23 commits an offense. An offense under this section is a Class C
2-24 misdemeanor.

2-25 Sec. 240.048. EXCEPTIONS. This subchapter does not apply
2-26 to a private water well drilled:

2-27 (1) on a parcel of land that:
2-28 (A) is 10 acres or more in size; or
2-29 (B) is qualified open-space land, as defined by
2-30 Section 23.51, Tax Code;

2-31 (2) within the boundaries of a groundwater
2-32 conservation district; or

2-33 (3) within the boundaries of a subsidence district
2-34 other than the Harris-Galveston Coastal Subsidence District.

2-35 SECTION 2. This Act takes effect September 1, 2005.

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