

By: Howard of Fort Bend

H.B. No. 3580

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the rights of owners of land located in a groundwater
3 conservation district and their lessees and assigns in groundwater.

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

5 SECTION 1. Sections 36.0015 and 36.002, Water Code, are
6 amended to read as follows:

7 Sec. 36.0015. PURPOSE. In order to provide for the
8 conservation, preservation, protection, recharging, and prevention
9 of waste of groundwater, and of groundwater reservoirs or their
10 subdivisions, ~~and~~ to control subsidence caused by withdrawal of
11 water from those groundwater reservoirs or their subdivisions, and
12 to protect the property rights of owners of land overlying
13 groundwater reservoirs or their subdivisions, consistent with the
14 objectives of Section 59, Article XVI, Texas Constitution,
15 groundwater conservation districts may be created as provided by
16 this chapter. Groundwater conservation districts created as
17 provided by this chapter are the state's preferred method of
18 groundwater management through rules developed, adopted, and
19 promulgated by a district in accordance with the provisions of this
20 chapter.

21 Sec. 36.002. OWNERSHIP OF GROUNDWATER. (a) The ownership
22 and rights of the owners of the land and their lessees and assigns
23 in groundwater are hereby recognized, and nothing in this code
24 shall be construed as depriving or divesting the owners or their

1 lessees and assigns of the ownership or rights, except as those
2 rights may be limited or altered by rules promulgated by a district.
3 A rule promulgated by a district may not discriminate between
4 owners of land that is irrigated for production and owners of land
5 or their lessees and assigns whose land that was irrigated for
6 production is enrolled or participating in a federal conservation
7 program.

8 (b) Except as provided by Subsections (c), (d), and (e), a
9 person who has an estate in land located in a district and overlying
10 a groundwater reservoir or subdivision of a groundwater reservoir
11 has the same right to drill a well on the land and withdraw by means
12 of the well an amount of groundwater for each acre of land assigned
13 to the well as other owners of estates in land located in the
14 district and overlying that groundwater reservoir or subdivision of
15 a groundwater reservoir.

16 (c) A person who has an estate in land located in a district
17 and overlying a groundwater reservoir or subdivision of a
18 groundwater reservoir may withdraw by means of a well an amount of
19 groundwater for each acre of land assigned to the well that exceeds
20 the amount other owners of estates in land located in the district
21 and overlying that groundwater reservoir or subdivision of a
22 groundwater reservoir may withdraw if, because of hydrological
23 conditions, withdrawal of a greater amount of groundwater will not
24 have a substantial effect on the availability of groundwater to
25 those other owners.

26 (d) A person who has an estate in land located in a district
27 and overlying a groundwater reservoir or subdivision of a

1 groundwater reservoir and who, at any time during the period from
2 2002 to 2007, has withdrawn groundwater by means of a well located
3 on the land and used the groundwater for a beneficial purpose on the
4 land, other than filling a pond or lake, may withdraw annually by
5 means of the well an amount of groundwater equal to the maximum
6 amount of groundwater the person withdrew in any year by means of
7 the well during that period. The right provided by this subsection
8 expires if the groundwater:

9 (1) is used for a purpose other than a purpose for
10 which it was used during the period from 2002 to 2007;

11 (2) ceases to be used on the land on which the well is
12 located; or

13 (3) is not used for five consecutive years.

14 (e) A person who owns a well that was used at any time during
15 the period from 2002 to 2007 to supply water to a public water
16 system may withdraw annually for that purpose by means of the well
17 an amount of groundwater equal to the maximum amount of groundwater
18 the person withdrew in any year for that purpose by means of the
19 well during that period. The right provided by this subsection
20 expires if the groundwater is used for a different purpose.

21 (f) Subsections (d) and (e) apply only to a well that is
22 drilled and operated in compliance with the rules of a district.

23 (g) If according to the best estimate available, a district
24 determines that the average annual rate of recharge of a
25 groundwater reservoir or subdivision of a groundwater reservoir has
26 been reduced, the district may reduce the amount of groundwater a
27 person has the right to withdraw from the groundwater reservoir or

1 subdivision of the groundwater reservoir by means of a well as
2 provided by Subsection (d) or (e) by a percentage equal to the
3 percentage by which the rate of recharge has been reduced.

4 (h) If more than one person has the right to withdraw
5 groundwater from a groundwater reservoir or subdivision of a
6 groundwater reservoir as provided by this section and the amount of
7 groundwater available is not sufficient to permit each person to
8 withdraw the amount of groundwater the person is entitled to
9 withdraw as otherwise provided by this section, each person is
10 entitled to withdraw a portion of the available groundwater in the
11 proportion that the amount of groundwater the person is entitled to
12 withdraw as otherwise provided by this section bears to the total
13 amount of groundwater all of the persons are entitled to withdraw as
14 otherwise provided by this section.

15 (i) This section prevails over any other statute.

16 (j) This section does not apply to land located in the
17 Edwards Aquifer Authority.

18 SECTION 2. This Act takes effect September 1, 2007.