

By: Seliger

S.B. No. 1383

Substitute the following for S.B. No. 1383:

By: Puente

C.S.S.B. No. 1383

A BILL TO BE ENTITLED

AN ACT

1
2 relating to district hearings and citizen suits for illegally
3 drilling or operating a water well.

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

5 SECTION 1. Subsections (a), (b), and (c), Section 36.119,
6 Water Code, are amended to read as follows:

7 (a) Drilling or operating a well or wells without a required
8 permit or producing groundwater in violation of a district rule
9 adopted under Section 36.116(a)(2) [~~operating a well at a higher~~
10 rate of production than the rate approved for the well] is declared
11 to be illegal, wasteful per se, and a nuisance.

12 (b) Except as provided by this section, a landowner or other
13 [A] person who has a right to produce groundwater from land that is
14 [~~an estate in land~~] adjacent to the land on which a [the] well or
15 wells are drilled or operated without a required permit or permits
16 or from which groundwater is produced in violation of a district
17 rule adopted under Section 36.116(a)(2) [~~is located~~], or who owns
18 or otherwise has a right to produce groundwater from land [a part]
19 that lies within one-half mile of the well or wells, may sue the
20 owner of the well or wells in a court of competent jurisdiction to
21 restrain or enjoin the illegal drilling, ~~or~~ operation, or both.
22 The suit may be brought with or without the joinder of the district.

23 (c) Except as provided by this section, the [The] aggrieved
24 party may also sue the owner of the well or wells for damages for

1 injuries suffered by reason of the illegal operation or production
2 and for other relief to which the party [~~they~~] may be entitled. In a
3 suit for damages against the owner of the well or wells, the
4 existence [~~or operation~~] of a well or wells drilled without a
5 required permit or the operation of a well or wells in violation of
6 a district rule adopted under Section 36.116(a)(2) [~~in violation of~~
7 ~~the rules of the district~~] is prima facie evidence of illegal
8 drainage.

9 SECTION 2. Section 36.119, Water Code, as amended by this
10 Act, applies only to a violation occurring on or after the effective
11 date of this Act. Any violation occurring before the effective date
12 of this Act is governed by the law in effect on the date the
13 violation occurred, and that law is continued in effect for that
14 purpose.

15 SECTION 3. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2007.