

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1714
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Natural Resources
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, groundwater districts are the state's preferred method of managing groundwater through rules developed, adopted, and promulgated by a district in accordance with Chapter 36 (Groundwater Conservation Districts), Water Code.

While Chapter 36, Water Code, defines "use for a beneficial purpose" to include any other purpose that is useful and beneficial to the user, it does not clarify what evidence may be used to support a proposed beneficial use. The clarification provided by this bill is similar to the definition of "evidence of historic use" added by Acts of the 79th Legislature, Regular Session, 2005, which is used when a groundwater district considers historic use permit applications.

C.S.S.B. 1714 amends current law relating to evidence of beneficial use and other matters in connection with the issuance of permits by a groundwater conservation district in accordance with its management plan. C.S.S.B. 1714 defines "evidence of beneficial use" and prohibits a groundwater district from granting a permit unless the applicant has provided evidence of beneficial use.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resources Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality (TCEQ), as the successor to TNRCC.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to a district created under Section 52, Article III, or Section 59, Article XVI that has the authority to regulate the spacing of water wells, the production from water wells, or both, in SECTION 6 (Section 36.1133, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.001, Water Code, by adding Subdivision (28-a), to define "evidence of beneficial use."

SECTION 2. Amends Section 36.1071(a), Water Code, as follows:

- (a) Requires a district created under Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III (Legislative Department), or Section 59 (Conservation and Development of Natural Resources and Parks and Recreation Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, that has the authority to regulate the spacing of water wells, the production from water wells, or both (district), following notice and hearing, in coordination with surface water management entities on a regional basis, to develop a comprehensive management plan which, as applicable, addresses the ability of the district's groundwater resources to meet the future water supply needs of the district and this state as established in the adopted state water plan, including any water management strategy dependent on use of the district's groundwater resources.

SECTION 3. Amends Section 36.1072(g), Water Code, to authorize a person with a legally defined interest in groundwater in a district or in the management area in which a district is located or a regional water planning group dependent on a district's groundwater resources to meet a water management strategy identified in the adopted state water plan to file a petition

with the development board stating that conflict requiring resolution may exist between the district's approved management plan developed under Section 36.1071 (Management Plan) and the state water plan.

SECTION 4. Amends Sections 36.108(c), (f), and (l), Water Code, as follows:

(c) Requires the districts, in reviewing the management plans, to consider the goals of each management plan and its impact on planning throughout the management area and this state as established by the adopted state water plan.

(f) Includes a regional water planning group dependent on the groundwater resources in the groundwater management area to meet a water management strategy identified in the adopted state water plan among the entities that are authorized to file a certain petition with the Texas Natural Resource Conservation Commission.

(l) Authorizes a person with a legally defined interest in the groundwater in the groundwater management area, a district in or adjacent to the groundwater area, or a regional water planning group dependent on the groundwater resources, rather than for a region, in the groundwater management area to meet a water management strategy identified in the adopted state water plan to file a certain petition with the Texas Water Development Board.

SECTION 5. Amends Section 36.113, Water Code, by adding Subsection (e-1), to prohibit a district from granting a permit unless the applicant provides evidence of beneficial use.

SECTION 6. Amends Subchapter D, Chapter 36, Water Code, by adding Section 36.1133, as follows:

Sec. 36.1133. PREPRODUCTION PERMITS. (a) Authorizes a district to adopt rules to authorize the issuance of a preproduction permit to an applicant if the applicant has met the requirements for production permit but is unable to provide documentation of a need to supply water for a purpose included in an approved regional water plan.

(b) Requires that the term of a preproduction permit issued under this section be five years.

(c) Requires the district, if before the expiration of a preproduction permit, the holder of the permit provides to the district that issued the permit a copy of a water supply contract or other documentation of an obligation to supply water for a purpose included in an approved regional water plan, to convert the preproduction permit to a production permit for that purpose and for the amount of production authorized by the preproduction permit.

SECTION 7. Amends Section 36.122, Water Code, by amending Subsection (f) and adding Subsection (r), as follows:

(f) Requires the district, in reviewing a proposed transfer of groundwater out of the district, to consider certain information, including the approved district management plan, rather than the approved regional water plan and certified district management plan.

(r) Prohibits a district from granting a permit that allows the transfer of groundwater outside the district for municipal use unless the municipal use is established by a contractual obligation described by Section 36.001(28-a)(B).

SECTION 8. Makes application of Sections 36.113(e-1) and 36.1133, Water Code, as added by this Act, and Section 36.122, Water Code, as amended by this Act, prospective.

SECTION 9. Effective date: upon passage or September 1, 2009.