

1-1 By: Callegari, Creighton (Senate Sponsor - Duncan) H.B. No. 2063
1-2 (In the Senate - Received from the House May 4, 2009;
1-3 May 5, 2009, read first time and referred to Committee on Natural
1-4 Resources; May 13, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 13, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2063 By: Duncan

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

1-10 relating to the enforcement of rules by a groundwater conservation
1-11 district.

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

1-13 SECTION 1. Section 36.102, Water Code, is amended to read as
1-14 follows:

1-15 Sec. 36.102. ENFORCEMENT OF RULES. (a) A district may
1-16 enforce this chapter and its rules against any person by
1-17 injunction, mandatory injunction, or other appropriate remedy in a
1-18 court of competent jurisdiction.

1-19 (b) The board by rule may set reasonable civil penalties
1-20 against any person for breach of any rule of the district not to
1-21 exceed \$10,000 per day per violation, and each day of a continuing
1-22 violation constitutes a separate violation.

1-23 (c) A penalty under this section is in addition to any other
1-24 penalty provided by the law of this state and may be enforced
1-25 against any person by complaints filed in the appropriate court of
1-26 jurisdiction in the county in which the district's principal office
1-27 or meeting place is located.

1-28 (d) If the district prevails in any suit to enforce its
1-29 rules, the district may seek and the court shall grant against any
1-30 person, in the same action, recovery for attorney's fees, costs for
1-31 expert witnesses, and other costs incurred by the district before
1-32 the court. The amount of the attorney's fees shall be fixed by the
1-33 court.

1-34 (e) In an enforcement action by a district against any
1-35 person that is a governmental entity for a violation of district
1-36 rules, the limits on the amount of fees, costs, and penalties that a
1-37 district may impose under Section 36.122, 36.205, or this section,
1-38 or under a special law governing a district operating under this
1-39 chapter, constitute a limit of liability of the governmental entity
1-40 for the violation. This subsection shall not be construed to
1-41 prohibit the recovery by a district of fees and costs under
1-42 Subsection (d) in an action against any person that is a
1-43 governmental entity.

1-44 SECTION 2. Section 311.031(a), Government Code, applies to
1-45 the amendments by this Act to Section 36.102, Water Code.

1-46 SECTION 3. This Act takes effect immediately if it receives
1-47 a vote of two-thirds of all the members elected to each house, as
1-48 provided by Section 39, Article III, Texas Constitution. If this
1-49 Act does not receive the vote necessary for immediate effect, this
1-50 Act takes effect September 1, 2009.

1-51 * * * * *