

BILL ANALYSIS

Senate Research Center
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S.B. 667
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Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, creates a public right for the legislature to affirmatively manage this state's natural resources, the most important of which is arguably water. The legislature has worked diligently over many years to fulfill this constitutional obligation by developing a comprehensive statutory framework for groundwater management and conservation. This structure has been developed over a series of decades around the fundamental premise that groundwater production should be regulated at the local level to provide for the conservation, preservation, protection, recharge, and prevention of waste of groundwater and to control subsidence caused by groundwater withdrawal in a way that satisfies the constitutional mandates of Section 59, Article XVI.

S.B. 667 recognizes the importance of landowners' rights in the groundwater beneath their land and the complex relationship between those rights, the obligation imposed on the legislature by the Texas Constitution to manage and conserve finite groundwater supplies, and the role of groundwater districts to manage the resource for uses today and in the future. The purpose of the bill is to articulate the legislature's policy with respect to groundwater management in Texas and how that policy interrelates to the rights of landowners in the groundwater resources underneath their properties.

As proposed, S.B. 667 amends current law relating to the management of groundwater resources in this state and the rights of landowners in groundwater.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Sets forth legislative findings and declaration of policy relating to the management of Texas groundwater resources.

SECTION 2. Amends Section 36.0015, Water Code, as follows:

Sec. 36.0015. PURPOSE. Authorizes that groundwater conservation districts (GCDs) be created under and act in accordance with this chapter in order to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of the many unique groundwater reservoirs and reservoir subdivisions in this state and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives and mandates of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution. Provides that GCDs created as provided by this chapter are the state's preferred method of groundwater management through rules and management plans developed, adopted, and promulgated by a district in accordance with the provisions of this chapter.

SECTION 3. Amends Section 36.002, Water Code, as follows:

Sec. 36.002. OWNERSHIP OF GROUNDWATER. (a) Creates this subsection from existing text. Provides that the ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, including the right to seek and attempt to capture groundwater that underlies the surface of the land, and requires that nothing in this code be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, except as those rights may be limited or altered by rules promulgated by a district acting in accordance with the district's statutory powers and duties.

(b) Provides that the prudent and effective management of groundwater resources is necessary and beneficial to the welfare of this state and, therefore, serves a compelling public interest. Provides that the rights of the citizenry to the preservation and conservation of groundwater resources underlying the public and private lands of this state are, accordingly, hereby recognized and accommodated through the powers delegated pursuant to this chapter.

(c) Prohibits the recognition of rights under Subsection (a) from being construed to prohibit the reasonable regulation, preservation, and conservation of groundwater by a district. Authorizes a district to develop limits on the production of groundwater that affect the availability of permits issued by the director if the limitations are:

(1) reasonable and warranted under the district's management plan;

(2) consistent with the desired future conditions adopted under Section 36.108 (Joint Planning in Management Area);

(3) not designed so that the limitations prevent a landowner from accessing a reasonable amount of water for livestock watering or domestic purposes for use on the landowner's property; and

(4) implemented in accordance with the authority granted by this chapter or special law governing a district.

(d) Creates this subsection from existing text and makes no further changes.

SECTION 4. Effective date: upon passage or September 1, 2011.