

By: Miller of Erath

H.B. No. 2398

A BILL TO BE ENTITLED

AN ACT

relating to the ownership of and right to produce groundwater.

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

SECTION 1. Section 36.002, Water Code, is amended to read as follows:

Sec. 36.002. OWNERSHIP OF GROUNDWATER. (a) The ownership and rights of the owners of the land and their lessees and assigns in groundwater, including the ownership of groundwater in place and the right to produce groundwater, are hereby recognized, and nothing in this code shall 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~~.

(b) The right of a landowner or the landowner's lessee or assign to produce groundwater may be limited by a rule promulgated by a district only if the rule is consistent with:

(1) Sections 3, 17, and 19, Article I, Texas Constitution; and

(2) the Fifth and Fourteenth Amendments to the United States Constitution.

(c) A rule promulgated by a district may not discriminate between owners of land that is irrigated for production and owners of land or their lessees and assigns whose land that was irrigated for production is enrolled or participating in a federal

1 conservation program.

2 SECTION 2. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2011.