

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 24, 2011**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: SB332** by Fraser (Relating to the ownership of groundwater below the surface of land, the right to produce that groundwater, and the management of groundwater in this state. ), **As Passed 2nd House**

**No fiscal implication to the State is anticipated.**

The bill would amend the Water Code to provide that a landowner owns the groundwater below the surface of the landowner's land as real property. A landowner would be entitled to drill for and produce the groundwater below the surface of the landowner's real property, subject to Subsection (d), without causing waste or malicious drainage of other properties or subsidence, but would not be entitled to a right to capture a specific amount. The rights and interests of the landowner could also be limited by a groundwater and conservation district's rules under Subsection (d), including that a district allocate to each landowner a proportionate share of available groundwater for production from the aquifer based on the number of acres owned by the landowner.

A groundwater conservation district would be required to consider the groundwater ownership and rights; the public interest in conservation, preservation, protection, recharging, and prevention of waste of groundwater and of groundwater reservoirs or their subdivisions, and in controlling subsidence caused by withdrawal of water; and the goals developed by districts as part of their management plans.

**Local Government Impact**

There could be a fiscal impact to a groundwater and conservation district (GCD), but it would vary depending on the number of lawsuits filed that could result from the provisions of the bill.

The provisions of the bill would establish that groundwater rights are equal to oil and gas rights, but would not ensure that the landowner owns any groundwater rights to the groundwater underneath their property. A GCD may have to verify that a potential well owner is actually the owner and entitled to the groundwater beneath the property prior to approving a well by requesting a property deed from the potential well owner or at the County Clerk's office. The costs involved could be minimal or could have a significant impact on a district's budget depending on the rules established in regard to the provisions required in the bill. It is assumed that a GCD would adopt rules and procedures that would not result in a significant fiscal impact to the district.

**Source Agencies:** 580 Water Development Board

**LBB Staff:** JOB, SZ, TP