

By: Cyrier

H.B. No. 3116

Substitute the following for H.B. No. 3116:

By: Larson

C.S.H.B. No. 3116

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the regulation of groundwater with historic use by and  
3 conflicts of law for the Lost Pines Groundwater Conservation  
4 District.

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

6 SECTION 1. Section 8849.005, Special District Local Laws  
7 Code, is amended to read as follows:

8 Sec. 8849.005. CONFLICTS OF LAW. (a) Except as otherwise  
9 provided by this chapter, if there is a conflict between this  
10 chapter and Chapter 36, Water Code, this chapter prevails.

11 (b) The following provisions prevail over a conflicting or  
12 inconsistent provision of this chapter:

- 13 (1) Sections 36.1071-36.1073, Water Code;  
14 (2) Sections 36.159-36.161, Water Code; and  
15 (3) Subchapter I, Chapter 36, Water Code.

16 SECTION 2. Subchapter C, Chapter 8849, Special District  
17 Local Laws Code, is amended by adding Section 8849.107 to read as  
18 follows:

19 Sec. 8849.107. HISTORIC USE; REDUCTION AND CURTAILMENT. (a)  
20 In this section:

21 (1) "Best available science" means conclusions that  
22 are logically and reasonably derived using statistical or  
23 quantitative data, techniques, analyses, or studies that are  
24 publicly available to reviewing scientists and that may be employed

1 to address a specific scientific question.

2 (2) "Historic use" means an amount determined by the  
3 actual lawful production of groundwater that is put to beneficial  
4 use from a permitted well in Lee or Bastrop County in any calendar  
5 year after December 31, 2000, and before January 1, 2013.

6 (b) Before issuing an order for a reduction or curtailment,  
7 the district must adopt rules consistent with this section for the  
8 adoption, modification, or cancellation of an order for a reduction  
9 or curtailment. Rules adopted to reduce or curtail groundwater  
10 production must preserve production of groundwater from a well that  
11 has historic use to the maximum extent practicable in a manner  
12 consistent with the district's management plan.

13 (c) If the district by order implements a temporary  
14 reduction or curtailment that affects all wells permitted by the  
15 district for an aquifer, the district must:

16 (1) apply the reduction or curtailment in a manner  
17 that is uniform and nondiscriminatory; and

18 (2) use the best available science to determine the  
19 minimum amount of reduction or curtailment necessary to achieve the  
20 purposes of Section 36.116(a), Water Code.

21 (d) The reduction or curtailment order must provide for:

22 (1) except as provided by Subsection (f), the  
23 production for all permitted wells without historic use for the  
24 affected aquifer initially to be reduced at 100 percent of the  
25 amount ordered for reduction; and

26 (2) the production for all permitted wells with  
27 historic use for the affected aquifer initially to be reduced at 50

1 percent of the amount ordered for reduction.

2 (e) If a reduction order results in reducing to zero the  
3 allowed production level for permitted wells without historic use,  
4 the production for all permitted wells with historic use for the  
5 affected aquifer must be reduced at 100 percent of the amount  
6 ordered for reduction until the district modifies or cancels the  
7 reduction or curtailment.

8 (f) A permit without historic use that was issued before the  
9 effective date of the Act creating this section to a political  
10 subdivision for the purpose of supporting the operation of a power  
11 generation facility is subject to reduction or curtailment in the  
12 same manner and to the same extent as a permit with historic use.

13 (g) If aquifer conditions improve and the board modifies the  
14 reduction or curtailment order to allow increased production, the  
15 production amount for each permit must be restored proportionately  
16 to the amount of production authorized by the original permit.

17 (h) If aquifer conditions improve and the board cancels the  
18 reduction or curtailment order, the production amount for each  
19 permit is restored to the amount of production authorized by the  
20 original permit.

21 (i) A well's historic use does not exempt the well from any  
22 rule of the district relating to a matter other than the production  
23 of groundwater, including rules relating to beneficial use,  
24 conservation, waste, or pumping fees.

25 (j) Section 36.113(e), Water Code, applies to a well with  
26 historic use.

27 SECTION 3. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2015.