

By: King of Uvalde

H.B. No. 4444

A BILL TO BE ENTITLED

AN ACT

relating to the conservation and waste of groundwater.

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

SECTION 1. Section 36.001, Water Code, is amended by amending Subdivisions (8) and (9) and adding Subdivision (32) to read as follows:

(8) "Waste" means any one or more of the following:

(A) withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;

(C) escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater or from which the production of groundwater is not reasonably economically feasible;

(D) pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;

(E) willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural

1 watercourse, depression, lake, reservoir, drain, sewer, street,
2 highway, road, or road ditch, or onto any land other than that of
3 the owner of the well unless such discharge is authorized by permit,
4 rule, or order issued by the commission under Chapters 11 or 26;

5 (F) groundwater pumped for irrigation that
6 escapes as irrigation tailwater onto land other than that of the
7 owner of the well unless permission has been granted by the occupant
8 of the land receiving the discharge; ~~or~~

9 (G) the production or use of that amount of
10 groundwater in excess of that which is economically reasonable for
11 an authorized purpose when reasonable intelligence and reasonable
12 diligence are used in applying the groundwater to that purpose; or

13 (H) drilling, completing, maintaining, or
14 operating a well that does not comply with Chapter 1901,
15 Occupations Code, or the rules of the Texas Department of Licensing
16 and Regulation implementing that chapter ~~[for water produced from~~
17 ~~an artesian well, "waste" also has the meaning assigned by Section~~
18 11.205].

19 (9) "Use for a beneficial purpose" means use that is
20 made with reasonably efficient conservation practices for:

21 (A) agricultural, gardening, domestic, stock
22 raising, municipal, mining, manufacturing, industrial, commercial,
23 recreational, or pleasure purposes;

24 (B) exploring for, producing, handling, or
25 treating oil, gas, sulphur, or other minerals; or

26 (C) any other nonwasteful purpose that is useful
27 and beneficial to the user.

1 (32) "Conservation" means those practices, techniques,
2 and technologies that will reduce the consumption of water, reduce
3 the loss or waste of water, improve the efficiency in the use of
4 water, or increase the recycling and reuse of water so that a water
5 supply is made available for future or alternative uses.

6 SECTION 2. Section 36.113(d), Water Code, is amended to
7 read as follows:

8 (d) This subsection does not apply to the renewal of an
9 operating permit issued under Section 36.1145. Before granting or
10 denying a permit, or a permit amendment issued in accordance with
11 Section 36.1146, the district shall consider whether:

12 (1) the application conforms to the requirements
13 prescribed by this chapter and is accompanied by the prescribed
14 fees;

15 (2) the proposed use of water unreasonably affects
16 existing groundwater and surface water resources or existing permit
17 holders;

18 (3) the proposed use of water is dedicated to any
19 beneficial use;

20 (4) the proposed use of water is consistent with the
21 district's approved management plan;

22 (5) if the well will be located in the Hill Country
23 Priority Groundwater Management Area, the proposed use of water
24 from the well is wholly or partly to provide water to a pond, lake,
25 or reservoir to enhance the appearance of the landscape;

26 (6) the applicant has agreed to and the proposed use of
27 water will avoid waste and achieve water conservation; and

1 (7) the applicant has agreed that reasonable diligence
2 will be used to protect groundwater quality and that the applicant
3 will follow well plugging guidelines at the time of well closure.

4 SECTION 3. Section 11.042, Water Code, is amended by adding
5 Subsection (e) to read as follows:

6 (e) The commission may authorize a person to discharge
7 groundwater into a watercourse or stream prior to its beneficial
8 use for subsequent diversion and beneficial use through a bed and
9 banks authorization under this section. The commission shall
10 consider the expected carriage and other losses of the groundwater
11 in light of the totality of circumstances involved in the project
12 described in the application and shall grant, deny, or grant with
13 special conditions the authorization on the basis of:

14 (1) the reasonableness of the project under the
15 circumstances when balanced with the need to achieve conservation
16 and avoid waste; and

17 (2) whether the application meets all other applicable
18 requirements of this chapter and the rules of the commission.

19 SECTION 4. Chapter 11, Subchapter F, is amended by adding
20 Section 11.201 to read as follows:

21 Sec. 11.201 APPLICABILITY. (a) Except as provided by
22 Subsection (b), this subchapter applies in areas of the state
23 outside the boundaries of a groundwater conservation district,
24 subsidence district, or other conservation and reclamation
25 district that has the authority to regulate the drilling, spacing,
26 or production of water wells.

27 (b) Sections 11.202(c) and 11.206 also apply within the

1 boundaries of a district described under Subsection (a).

2 SECTION 5. Sections 11.202(d) and (e), 11.203, 11.204, and
3 11.207, Water Code, are repealed.

4 SECTION 6. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2023.