

SUBJECT: Regulation of landowners participating in a federal conservation program

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 8 ayes — Puate, Callegari, Hope, Campbell, R. Cook, Geren, Hamilton,
Hardcastle

0 nays

1 absent — Wolens

SENATE VOTE: On final passage, April 30 — voice vote

WITNESSES: For — Randy Barker, Hudspeth County Underground Water Conservation
District #1; (*On committee substitute:*) Risher Gilbert, Estate of Mike Lynch
and Jack Lynch; Doug Caroom; James Lynch

Against — None

On — Jace A. Houston, Harris-Galveston Coastal Subsidence District; Brian
Sledge, C.L. Machinery; C.E. Williams, Panhandle Groundwater
Conservation District

BACKGROUND: Water Code, ch. 36 governs groundwater conservation districts. Sec. 36.002
recognizes the groundwater rights of landowners and allows a groundwater
district to promulgate rules that limit or alter those rights. Sec. 36.101(a)
allows a groundwater district to limit groundwater production in order to
control subsidence, prevent degradation of water quality, or prevent water
waste. Sec. 36.113 authorizes groundwater districts to grant permits for
groundwater wells. The district must consider whether the proposed use of
water is dedicated to a beneficial use.

The federal Food Security Act of 1985 established the Conservation Reserve
Program (CRP). This voluntary program offers annual payments to cropland
owners to offset costs associated with certain practices for conservation of
soil, water, and wildlife resources. The program is administered by the U.S.
Department of Agriculture's Farm Service Agency.

DIGEST: CSSB 1377 would prohibit a groundwater conservation district's rules from discriminating against landowners or their lessees whose land was enrolled in the CRP. A groundwater district's rules limiting groundwater production could not discriminate between land in production and land enrolled or participating in the CRP. A district could not discriminate against land enrolled or participating in the program when issuing a well permit for existing or historic use. Any land in a federal reserve program would have to be treated as having an existing and historic use. The bill's provisions would not apply to rules adopted by the Edwards Aquifer Authority.

The bill would take effect September 1, 2003.

NOTES: The Senate engrossed version would have specified that a groundwater district would not be considered to discriminate against a CRP participant if the district adopted rules allowing the participant to establish existing or historic use based on the participant's groundwater production during a period before the participant had entered the CRP. The committee substitute would require any district rule related to protecting existing or historic use to treat any land in the CRP as having an existing and historic use.