

SUBJECT: Regulating the placement of private water wells in certain counties

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 6 ayes — Puente, Callegari, Geren, Hardcastle, Hilderbran, Laney

0 nays

3 absent — Hope, Bonnen, Campbell

SENATE VOTE: On final passage, April 22 — 27-1 (Staples)

WITNESSES: For — David Jefferson, Tarrant County Public Health; Mark Mendez, Tarrant County

Against — None

BACKGROUND: According to guidelines set by the Texas Department of Licensing and Regulation (TDLR) a water well must be a minimum of 100 feet from certain sewage systems.

DIGEST: CSSB 343 would allow the commissioners court of counties with populations of 1.4 million or more (Harris, Dallas, Tarrant) to regulate the placement of private water wells in the unincorporated area of the county in order to prevent:

- the contamination of a well from an on-site sewage disposal systems;
- the placement of the well from rendering out of compliance with the law an on-site sewage disposal system that was in place before the well was drilled; and
- drilling into a contaminated groundwater plume or aquifer.

Rules. If a commissioners court decided to regulate the placement of private water wells, the court would have to adopt certain rules governing the placement of a water well in relation to an existing on-site sewage disposal system or drilling into a contaminated groundwater plume or aquifer.

An individual drilling a well or the owner of the land would have to notify the county of the intent to drill the well and diagram the location of the well and its distance from any on-site sewage disposal system that is located within 100 feet of the well.

The county also would have to review the notice and diagram and within 10 days of receiving the notice either approve or disapprove the drilling of the well. The well could be approved only if:

- it was not drilled into or through an aquifer or groundwater plume that had been confirmed to be contaminated by the Texas Commission on Environmental Quality (TCEQ) or the Environmental Protection Agency (EPA); and
- placement of the well would not violate the rules related to the regulation of water well drillers and water well pump installers, under Occupations Code, secs. 1901 and 1902.

The county would have to provide a written acknowledgment to the driller and landowner stating whether the drilling of the well had been approved and also stating that the above requirements had been satisfied.

The county could charge the person drilling the well a placement review fee of up to \$50. This money could be used only for the administration and enforcement of these rules.

The county could also inspect a proposed private water well site to ensure that it complied with these requirements and other county rules.

Notice. Counties that chose to regulate the placement of private water wells would be required to post notice in a local newspaper of the adoption of these rules.

The notice would have to be published on two separate dates at least 14 days before the rules took effect and would have to include a brief summary of the rules and a statement that the full text of the rules was on file in the office of the county clerk.

Penalty. Drilling a well in a county that chose to regulate the placement of private wells without possessing a written acknowledgment would be a class C misdemeanor, punishable by a fine of up to \$500. Counties would

have to report citations to the Texas Department of Licensing and Regulation.

Exceptions. The following would be exempt from these rules:

- private water wells on a parcel of land that was 10 acres or more in size or was qualified open-space land;
- private water wells within the boundaries of a groundwater conservation district;
- private water wells within the boundaries of a subsidence district other than the Harris-Galveston Coastal Subsidence District;
- private water wells incident to the exploration, development, or production of oil, gas, or other minerals; and
- public water systems permitted under TCEQ rules.

CSSB 343 would exempt water well pump installers who installed, maintained, altered, and repaired water well pumps from the regulation of electricians under the Occupations Code, ch. 1305.

"Onsite sewage disposal system" would be defined as one or more systems of treatment devices and disposal facilities that:

- produced not more than 5,000 gallons of waste each day; and
- were used only for disposal of sewage produced on a site on which any part of the system is located.

The bill would take effect on September 1, 2005.

NOTES:

The committee substitute made the following changes:

- requiring those wanting to drill a private well or the landowner to show the distance of the proposed well from any sewage disposal systems located 100 feet, rather than 150 feet, from the well;
- adding a provision requiring the county to issue a written acknowledgment to the person wishing to drill a well;
- requiring the county to report violations to the Texas Department of Licensing and Regulation;

- adding to the list of exceptions public water systems permitted by TCEQ rules; and
- exempting water well pump installers from the requirements of the Occupations Code, ch. 1305.