

- SUBJECT:** Enforcement of rules by a groundwater conservation district
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 8 ayes — Ritter, Callegari, Corte, Creighton, Frost, Laubenberg, Miller, Smithee
- 0 nays
- 3 absent — T. King, Lucio, Martinez Fischer
- WITNESSES:** For — Gregory Ellis, Texas Alliance of Groundwater Districts; Monique Norman, Brazos Valley Groundwater Conservation District (GCD) and Panhandle GCD; (*Registered, but did not testify:* Janet Adams, Jeff Davis County Underground Water Conservation District; Jim Conkwright, High Plains Underground Water Conservation District #1; Harvey Everheart, Mesa Underground Water Conservation District; Scott Holland, Irion County Water Conservation District and Sterling County Underground Water Conservation District; Billy Howe, Texas Farm Bureau; Mike McGuire and Lambeth Townsend, Rolling Plains GCD; C.E. Williams, Panhandle Groundwater District)
- Against — None
- BACKGROUND:** Water Code, sec. 36.101 states that groundwater conservation districts (GCD) can make and enforce rules, including rules limiting groundwater production based on tract size or the spacing of wells, to provide for conserving, preserving, protecting, and recharging of groundwater or a groundwater reservoir in order to control subsidence, prevent degradation of water quality, or prevent waste of groundwater and to carry out its powers and duties.
- Water Code, sec. 36.102 outlines the following provisions for a GCD to enforce its rules:
- a GCD can enforce appropriate laws and rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction;

- the board of directors of a GCD can establish reasonable civil penalties for breach of any rule of the district not to exceed \$10,000 per day per violation, and each day of a continuing violation constitutes a separate violation;
- a penalty resulting from rule enforcement is in addition to any other state penalty and can be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located; and
- if the GCD prevails in any suit to enforce its rules, it can seek and be granted by the court, in the same action, recovery for the fixed rate of attorney's fees, costs for expert witnesses, and other costs incurred by the GCD before the court.

DIGEST: HB 2063 would amend Water Code, sec. 36.102 to add that a groundwater conservation district could enforce its rules, set penalties against, and recoup court costs against any person.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

NOTES: The companion bill, SB 1190 by Duncan, was reported favorably without amendment by the Senate Natural Resources Committee on March 31.