

SUBJECT: Groundwater permit requirements for changing the use of an exempt well

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Ritter, Beck, Creighton, Hopson, Keffer, Larson, Lucio,  
Martinez Fischer, D. Miller, Price

0 nays

1 absent — T. King

WITNESSES: For — Gregory Ellis; (*Registered, but did not testify*: Mike Barnett, Texas Association of Realtors; Luana Buckner, Dean Robbins, Texas Water Conservation Association; Harvey Everheart, Mesa Underground Water Conservation District; Scott Holland, Irion County Water Conservation District and Sterling County Underground Water Conservation District; Mike Mahoney, Evergreen Underground Water Conservation District; Mike McGuire, Rolling Plains Groundwater Conservation District; Stephanie Strother, Luminant)

Against — None

On — Ben Sebree, Texas Oil and Gas Association

BACKGROUND: Under ch. 36 of the Water Code, a groundwater conservation district can exempt certain wells from the requirement of obtaining a drilling, operating, or otherwise required permit.

The Water Code includes a mandatory statutory exemption for wells used solely for domestic and livestock use on a tract of land larger than 10 acres if the well is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day. Current law also exempts wells used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well or for mining activities.

Under current law, a district can require a well to obtain a permit and comply with all district rules if the well no longer is used for its exempted purpose.

**DIGEST:** HB 2311 would add language to the Water Code stating that a groundwater conservation district could cancel a previously granted exemption, and could require an operating permit for or restrict production from a well if the groundwater withdrawals that were exempted no longer were used solely for their originally exempted purposes.

The bill also would amend the language in the Water Code relating to the authority of a groundwater conservation district to require compliance with the district's well spacing rules for the drilling of any well, except a well used for mining activities.

A groundwater conservation district would have to require the owner of a well to register, equip, and maintain the well to conform to the district's rules.

A driller of a well would have to file with the district the well log as required by the Occupations Code and, if available, the geophysical log.

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, 2011.

**SUPPORTERS SAY:** HB 2311 simply would make some grammatical changes to current law to eliminate confusion and clarify that if the use of an exempt well changed, the permit exemption no longer could apply.

The terminology in sec. 36.117 of the Water Code is confusing, and gives the impression that an exemption applies to a well regardless of later changes in capacity, lot size, or purpose of use. New well owners frequently are cited for unintentional violations because they believe that their wells are exempt from the permit requirements.

**OPPONENTS SAY:** No apparent opposition.

**NOTES:** The companion bill, SB 692 by Estes, passed the Senate by 31-0 on the Local and Uncontested Calendar on April 7 and was reported favorably, without amendment, by the House Natural Resources Committee on April 19.