

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2423
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Natural Resources
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Most states treat farms participating in federal conservation programs as "active" for purposes of farm program benefits. In Texas, however, some groundwater districts treat farms participating in federal conservation programs as inactive for the purpose of issuing permits based on historic use.

C.S.H.B. 2423 prohibits a groundwater conservation district from discriminating against a farm participating in a federal conservation program, such as the U.S. Department of Agriculture's Conservation Reserve Program.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to a groundwater conservation district is modified in SECTION 2 (Section 36.002, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.001, Water Code, by adding Subdivision (4-a), to define "federal conservation program."

SECTION 2. Amends Section 36.002, Water Code, to prohibit a rule promulgated by a groundwater conservation district (district) from discriminating between owners of land that is irrigated for production and owners of land or their lessees and assigns whose land that was irrigated for production is enrolled or participating in a federal conservation program.

SECTION 3. Amends Section 36.113, Water Code, by amending Subsections (a), (c), (e), and (f), and adding Subsections (h) and (i), as follows:

(a) Requires the district to require permits for drilling, equipping, completing, or operating wells or for substantially altering the size of wells or well pumps.

(c) Authorizes a district to require that specific information be included if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed purpose of use in the permit application.

(e) Authorizes the district to impose more restrictive permit conditions on new permit applications and increased use by historic or existing users based on the conditions of certain limitations. Makes a conforming change.

(f) Makes a conforming change.

(h) Requires a district to provide that a change in the purpose and place of use under a permit that was granted for historic or existing use may not be made without a permit amendment. Requires the district to grant a permit amendment changing the purpose and place of use on application of the holder of a permit that was granted for historic or existing use, and the rules that apply to the operation of a well under any other permit issued by the district not based on historic or existing use apply to the operation of the well under the amended permit.

(i) Requires a district that authorizes a permit for historic or existing use to issue that type of permit based on evidence of the maximum amount of water beneficially used without waste during any one year before the district was created, or before the rules of the district were adopted or notice of such proposed rules was published and only for the purpose and amount beneficially used without waste in that year.

(j) Prohibits a district, in issuing a permit for an existing or historic use, from discriminating between land that is irrigated for production and land or wells on land enrolled or participating in a federal conservation program.

(k) Sets forth situations in which a permitting decision by a district is void.

(l) Requires the district, on the application of an affected owner of land or the owner's lessee or assigns, to reconsider a decision that is void under Subsection (k) and base its decision on the equal treatment of land or wells on land that was irrigated for production and enrolled or participating in a federal conservation program and land that is irrigated for production. Requires the district to render its decision and notify the applicant of its decision, not later than the 90th day after the date the district receives an application under this subsection.

SECTION 4. Amends Section 36.116(b), Water Code, to authorize the district, in promulgating any rules limiting groundwater production, to preserve historic or existing use before the effective date of the rules to the maximum extent practicable consistent with the district's comprehensive management plan under Section 36.1071 and as provided by Section 36.113.

SECTION 5. (a) Provides that the changes in law made under this legislation do not apply to certain permit issues, except in any district located in a single county whose boundaries were expanded, but are not coextensive with the county in which the district is located, by an Act of the Texas Legislature in a regular session on or after 2003.

(b) Provides that Subsection (a) of this section does not limit the ability of a district to adopt procedural rules governing notice, hearing, rulemaking, or permit processing in accordance with any law finally passed by the 79th Legislature, Regular Session, 2005, that governs notice, hearing, rulemaking, or permit processing procedures of districts, if the procedural rules adopted do not conflict with a substantive district rule that existed on March 1, 2005.

SECTION 6. Effective date: September 1, 2005.