

BILL ANALYSIS

Senate Research Center

S.B. 1691
By: Duncan
Natural Resources
4/3/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 36 (Groundwater Conservation Districts), Water Code, requires all wells in a groundwater conservation district (district) to be permitted, except for wells listed as exempted from this section. This has been interpreted to mean that groundwater regulations apply to everyone, unless specifically exempted, but this is not sufficiently clear.

Furthermore, current law is unclear in regards to sovereign immunity for political subdivisions for district enforcement of district rules. On March 2, 2007, the Texas Supreme Court issued an opinion in the case of *City of Galveston vs. The State of Texas* that could make a sovereign immunity waiver prudent. In this case, the supreme court ruled in favor of the City of Galveston against the state and the Texas Department of Transportation on the grounds that a city has sovereign immunity even in suits filed by the state. A sovereign immunity waiver is needed for political subdivisions so that the district can enforce compliance of district rules.

As proposed, S.B. 1691 clarifies that groundwater conservation district regulations apply to all persons, entities, and political subdivisions of the state, unless they are specifically exempted by general or special law. This bill also provides an express waiver of sovereign immunity for political subdivisions of the state that is specifically limited to matters of enforcement of district rules.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 36, Water Code, by adding Section 36.003, as follows:

Sec. 36.003. APPLICABILITY OF GROUNDWATER REGULATIONS. Provides that all persons, entities, and political subdivisions of the state are subject to groundwater regulation under this chapter (Groundwater Conservation Districts), except as exempted under Section 36.117 (Exemptions; Exception; Limitations).

SECTION 2. Amends Section 36.102, Water Code, by adding Subsection (e), to waive sovereign immunity to suit for all political subdivisions of the state for the purpose of enforcement of this chapter and groundwater conservation district rules.

SECTION 3. Sets forth the legislative finding that a political subdivision was subject to groundwater regulation under this chapter prior to the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2007.