

BILL ANALYSIS

Senate Research Center

S.B. 1959
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Natural Resources
4/25/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law authorizes a demonstration project program for the storage of appropriated water of an aquifer. This law provides for a review process by the Texas Commission on Environmental Quality (TCEQ) in which TCEQ takes into account how the introduction of water into the aquifer will alter the physical, chemical, or biological quality of native groundwater to a certain degree. However, no remedy is provided for surrounding well owners if the project alters the quality of the groundwater after the permit is issued.

The City of Stockdale is currently facing a potentially damaging problem with their public water supply. The San Antonio Water System has instituted a project to store appropriated water for use during severe drought seasons. The water is currently being stored by injecting excess water from the Edwards Aquifer into the Carrizo Aquifer near Wilson County. Stockdale commissioned a study to assess the consequences of this project on the city's wells that are used for drinking water. The study concluded that the project is severely depleting the water supply of Stockdale and is causing damage to the Carrizo Aquifer that may have a detrimental effect on the drinking water supply. Furthermore, these issues may lead to Stockdale having to construct a treatment facility to mitigate the problem.

As proposed, S.B. 1959 provides protection for the Carrizo Aquifer from potential damage caused by a project for the storage of appropriated water and protects the public drinking supply of the City of Stockdale by requiring political subdivisions that establish a demonstration program for the storage of water in an aquifer to conduct studies to verify any adverse effects that the project might have on surrounding well users if any well users notify the political subdivision of such an issue. This bill also provides for supervision by a municipal well user of the study, provides steps to be taken if an adverse effect is found, and provides a remedy for well users if the political subdivision fails to meet certain requirements.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

SECTION 1. Amends Subchapter D, Chapter 11, Water Code, by adding Section 11.156, as follows:

Sec. 11.156. DAMAGE TO AQUIFERS. Sets forth the criteria that determines whether a holder of a permit issued by the Texas Natural Resource Conservation Commission (TNRCC) to undertake a project under Section 11.153 (Projects for Storage of Appropriated Water in Aquifers) of this subchapter (Permits to Use State Water) (holder) has damaged an aquifer.

SECTION 2. Amends Subchapter D, Chapter 11, Water Code, by adding Section 11.156 [sic], as follows:

Sec. 11.157. NOTICE. Authorizes any surrounding well user to give written notice to the holder of the possible damage to the aquifer.

SECTION 3. Amends Subchapter D, Chapter 11, Water Code, by adding Section 11.158, as follows:

Sec. 11.158. TESTING OF DAMAGED AQUIFERS. Requires a holder to notify TNRCC and conduct certain tests after receiving notice from a surrounding well user that the project alters the physical, chemical or biological quality of native groundwater or the physical, chemical, or biological characteristics, or causes a downward trend in water levels, of the aquifer to a degree provided for in Section 11.156.

SECTION 4. Amends Subchapter D Chapter 11, Water Code, by adding Section 11.159, as follows:

Sec. 11.159. FINDINGS. (a) Requires a holder, on finding that the holder has damaged the aquifer as indicated in Section 11.156 of this subchapter, to immediately terminate the project, to commence all necessary steps to mitigate, reverse, and restore the aquifer, and to incur all costs of mitigating, reversing, and restoring the aquifer.

(b) Authorizes any of the surrounding well users, on finding that a holder fails to comply with Subsection (a) of this section, to bring a cause of action in any district court in the county in which all or part of the wells are located.

(c) Provides that a holder who fails to comply with Subsection (a) of this section is liable to any surrounding well user who brings a cause of action pursuant to Subsection (b) of this section for court costs, plaintiffs' reasonable attorney's fees, injunctive relief, and certain actual damages.

(d) Provides that sovereign immunity against suit and liability of a political subdivision of this state is specifically and expressly waived with respect to a suit brought by any party under this section.

SECTION 2. [sic] EFFECTIVE DATE. Effective date: upon passage or September 1, 2007.