

BILL ANALYSIS

Senate Research Center
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S.B. 1190
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Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Chapter 36 (Groundwater Conservation Districts), Water Code, no "person" is allowed to drill or operate a water well within the boundaries of a groundwater conservation district without a permit from the district, unless a permitting exemption applies. Groundwater conservation districts also have authority under Chapter 36 to enforce the statute or their rules implementing the statute in court.

This bill inserts the term "against any person" into the enforcement provisions of Chapter 36 to bring consistency in terminology between the prohibited acts language in Chapter 36 and the enforcement provisions of that chapter. This bill relies upon the commonly used definition of the term "person" in the Code Construction Act to clarify that all persons, including individuals, legal entities, and political subdivisions, are subject to these provisions of Chapter 36, so that all are treated fairly and impartially.

As proposed, S.B. 1190 authorizes a district to enforce this chapter and its rules against any person by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the board of directors of a district is modified in SECTION 1 (Section 36.102, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.102 Water Code, as follows:

Sec. 36.102. ENFORCEMENT OF RULES. (a) Authorizes any district or authority created under Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III (Legislative Department), or Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, that has the authority to regulate the spacing of water wells, the production from water wells, or both (district) to enforce this chapter and its rules against any person by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

(b) Authorizes the board of directors of a district by rule to set reasonable civil penalties against any person 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.

(c) Provides that a penalty under this section is in addition to any other penalty provided by the law of this state and is authorized to be enforced against any person by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located.

(d) Authorizes the district to seek and requires the court to grant against any person, in the same action, recovery for attorney's fees, costs for expert witness,

and other costs incurred by the district before the court, if the district prevails in any suit to enforce its rules.

SECTION 2. Effective date: upon passage or September 1, 2009.