

BILL ANALYSIS

Senate Research Center
84R24829 GRM-F

H.B. 4112
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Agriculture, Water & Rural Affairs
5/14/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that recent legislation amended the statute relating to the groundwater ownership and rights established by common law and provided a more detailed description of the groundwater ownership and rights that the legislature believed the courts had established for landowners. The parties note, however, that in a recent court case a court established a private property right that is not referenced in the statute, and the parties contend that the statute must be amended to recognize any common law right the courts establish for groundwater. H.B. 4112 seeks to address this issue.

H.B. 4112 amends the Water Code to establish that the groundwater ownership and rights recognized by the legislature entitle a landowner, including a landowner's lessees, heirs, or assigns, to have any right recognized under common law and not just the right to drill for and produce the groundwater below the surface of real property without causing waste or malicious drainage of other property or negligently causing subsidence.

H.B. 4112 amends current law relating to the rights of an owner of groundwater.

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 Section 36.002, Water Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Provides that the groundwater ownership and rights described by this section entitle the landowner, including a landowner's lessees, heirs, or assigns, to:

- (1) drill for and produce the groundwater below the surface of real property, subject to Subsection (d), without causing waste or malicious drainage of other property or negligently causing subsidence; and
- (2) have any other right recognized under common law.

Makes nonsubstantive changes.

(b-1) Provides that the groundwater ownership and rights described by this section do not:

- (1) entitle a landowner, including a landowner's lessees, heirs, or assigns, to the right to capture a specific amount of groundwater below the surface of that landowner's land; or
- (2) affect the existence of common law defenses or other defenses to liability under the rule of capture.

Makes nonsubstantive changes.

SECTION 2. Effective date: upon passage or September 1, 2015.