

Protect Local Control of Groundwater

Oppose Senate Bill 332

Current Law Provides:

- Landowners' ability to drill water wells and own the groundwater produced from beneath their land
- Local management of groundwater through locally controlled groundwater conservation districts
- Exempt and unpermitted use of groundwater for domestic and livestock purposes.
- Protection for current and historical use and users of groundwater through GCD rules and permits

Senate Bill 332 Would:

- Remove a district's ability to protect current and historical use of groundwater by favoring new users over existing ones
- Induce groundwater conservation districts to manage aquifers for excessive production beyond sustainable levels
- Ultimately force groundwater conservation districts to issue well permits based on the amount of land owned rather than the amount of water needed by the applicant

Oppose SB 332 and similar legislation that creates an ownership interest in groundwater in place and removes local control of groundwater management.

For more information contact:

*L.G. Raun, chair
Texas Rice Producers Legislative Group
(979) 543-4950*

RESOLUTION OF _____

RESOLUTION REGARDING VESTED GROUNDWATER OWNERSHIP AND SUSTAINABLE GROUNDWATER MANAGEMENT

WHEREAS, ownership of groundwater by the landowner who captures it has been recognized by the State of Texas since 1904; and

WHEREAS, under Section 36.002 of the Water Code, the Texas Legislature recognized the ownership and rights of landowners in groundwater except as those rights may be limited or altered by rules promulgated by locally-controlled groundwater conservation districts; and

WHEREAS, management intended to provide for the conservation, preservation, protection, recharging, and prevention of waste of the State's groundwater to ensure continuous availability must necessarily limit total annual production to an amount that can be sustained by the aquifer; and

WHEREAS, once the aggregate groundwater withdrawals equal the amount the aquifer can sustain, groundwater conservation districts are faced with the choice of denying applications for new wells or increased permits for existing use, or requiring existing users to reduce their pumping to allow new users to drill wells; and

WHEREAS, granting every landowner, regardless of the amount of land owned, a vested property right to capture some amount of groundwater would require groundwater conservation districts to grant permits for new wells and reduce permits already granted to permittees who have already invested in wells, pipelines and treatment facilities; and

WHEREAS, the Texas Supreme Court is currently considering a case that addresses the question of groundwater ownership in place: and

WHEREAS, existing and historic groundwater use sustains communities, businesses and agricultural production that are integral to local economies; and

WHEREAS, groundwater supplies over 99% of all rural, domestic and livestock water use in Texas; and

WHEREAS, the creation of a legally vested right to capture or a vested right to ownership of groundwater prior to capture would severely cripple a groundwater conservation district's ability to manage an aquifer for sustainability, while also subjecting the district, its permittees, constituents, rate payers and tax payers to unnecessary, harmful and costly lawsuits that would arise regardless of the district's reasonable course of action.

THEREFORE BE IT RESOLVED that we, _____, hereby affirm that, while property owners have the right to capture groundwater for beneficial purposes, those wells not specifically exempted from requiring a permit are subject to regulation by a groundwater conservation district as provided by Chapter 36 of the Water Code and each district's enabling legislation; and

THEREFORE BE IT FURTHER RESOLVED that we recommend strongly against the Texas Legislature or courts taking actions that would result in the creation of a vested right in groundwater prior to capture.

Signed and certified this _____ day of _____, 2011.

Name of presiding officer of entity

Name of officer of entity