

By: Fraser

S.B. No. 332

A BILL TO BE ENTITLED

AN ACT

relating to the vested ownership interest in groundwater beneath the surface and the right to produce that groundwater.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 36.002, Water Code, is amended to read as follows:

Sec. 36.002. OWNERSHIP OF GROUNDWATER. (a) A landowner, or the landowner's lessee or assign, has a vested ~~[The]~~ ownership interest ~~[and rights of the owners of the land and their lessees and assigns]~~ in and right to produce groundwater below the surface of the landowner's real property ~~[are hereby recognized]~~, and nothing in this code may ~~[shall]~~ be construed as granting the authority to deprive ~~[depriving]~~ or divest a landowner or the landowner's lessee or assign ~~[divesting the owners or their lessees and assigns]~~ of the ownership interest in the groundwater or the right to produce groundwater ~~[rights]~~, except as those rights and interests may be reasonably limited ~~[or altered]~~ by rules promulgated by a district.

(b) A rule promulgated by a district may not discriminate between an owner ~~[owners]~~ of land, or the owner's lessee or assign, whose land ~~[that]~~ is irrigated for production and an owner ~~[owners]~~ of land, or the owner's lessee or assign, ~~[their lessees and assigns]~~ whose land ~~[that]~~ was previously irrigated for production and is now enrolled or participating in a federal conservation program.

1 SECTION 2. Section 36.101, Water Code, is amended by
2 amending Subsection (a) and adding Subsection (a-1) to read as
3 follows:

4 (a) A district may make and enforce rules, including rules
5 limiting groundwater production based on tract size or the spacing
6 of wells, to provide for conserving, preserving, protecting, and
7 recharging of the groundwater or of a groundwater reservoir or its
8 subdivisions in order to control subsidence, prevent degradation of
9 water quality, or prevent waste of groundwater and to carry out the
10 powers and duties provided by this chapter. During the rulemaking
11 process the board shall:

12 (1) consider all groundwater uses and needs;

13 (2) consider the rights and interests under Section
14 36.002; and

15 (3) [~~shall~~] develop rules which are fair and impartial
16 and that do not discriminate between land that is irrigated for
17 production and land that was irrigated for production and enrolled
18 or participating in a federal conservation program.

19 (a-1) Any rule of a district that discriminates between land
20 that is irrigated for production and land that was irrigated for
21 production and enrolled or participating in a federal conservation
22 program is void.

23 SECTION 3. Section 36.108(c), Water Code, is amended to
24 read as follows:

25 (c) The presiding officer, or the presiding officer's
26 designee, of each district located in whole or in part in the
27 management area shall meet at least annually to conduct joint

1 planning with the other districts in the management area and to
2 review the management plans and accomplishments for the management
3 area. In reviewing the management plans, the districts shall
4 consider:

5 (1) the goals of each management plan and its impact on
6 planning throughout the management area;

7 (2) the effectiveness of the measures established by
8 each management plan for conserving and protecting groundwater,
9 ~~and~~ preventing waste, and protecting the rights and interests
10 under Section 36.002, and the effectiveness of these measures in
11 the management area generally;

12 (3) any other matters that the boards consider
13 relevant to the protection and conservation of groundwater and the
14 prevention of waste in the management area; and

15 (4) the degree to which each management plan achieves
16 the desired future conditions established during the joint planning
17 process.

18 SECTION 4. The changes in law made by this Act apply only to
19 a rule adopted by a groundwater conservation district on or after
20 the effective date of this Act or to a permit issued or application
21 filed pursuant to a rule adopted on or after the effective date of
22 this Act.

23 SECTION 5. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2011.