

- SUBJECT:** Revising permitting exemptions for wells in groundwater districts
- COMMITTEE:** Natural Resources — committee substitute recommended
- VOTE:** 6 ayes — Counts, King, Cook, Hope, R. Lewis, Walker
0 nays
3 absent — Corte, Hilderbran, Puente
- WITNESSES:** For — Richard Bowers, North Plains Groundwater Conservation District; Dennis Clark, Emerald Underground Water Conservation District; Harvey Everheart, Mesa Underground Water Conservation District; Jimmy Gaines
Against — None
- BACKGROUND:** Water Code, sec. 36.117 allows groundwater conservation districts to issue permits for the drilling, equipping, or completing of groundwater wells or for substantially altering the size of wells or well pumps. Wells that produce 25,000 gallons per day or less are exempt from district permitting requirements. Wells that provide water to 10 or fewer houses, for consumption by livestock and poultry, or for use in hydrocarbon production also are exempt.
- DIGEST:** CSHB 3587 would amend the Water Code to exempt from groundwater conservation district permitting requirements a well that produced 25,000 gallons per day or less if the well was on a tract of land larger than 10 acres and if the water was to be used for domestic purposes or livestock or poultry. A groundwater district could not restrict production from the well.

The bill also would exempt a well used solely to supply water for a drilling rig actively engaged in drilling or exploration and permitted by the Railroad Commission if the permit holder was responsible for the well, and the well was located near to or on the same lease or field as the rig. A district could require a permit if the exempted well no longer was used to supply water to a drilling rig that was actively engaged in drilling or exploration.

The bill also would exempt the drilling of a well or restricting the production of a well that produced water for surface coal mining purposes. A groundwater district could require a permit if the water were no longer necessary for the operation or if it exceeded the amount permitted by the Railroad Commission. If a permit was required, the permit holder would have to report monthly to the district the total amount of water withdrawn from the well, the quantity necessary for mining purposes, and the quantity withdrawn for other purposes. A district could not require the well to meet the district's spacing requirements.

A district could not deny a permit application to drill a well to supply water to a hydrocarbon production operation if the application complied with the district's spacing, density, and production rules. A driller of an exempted well would have to file the well's drilling log with the district. The bill would not affect a district's authority to impose fees for transferring groundwater out of the district, to levy taxes, or to impose other fees.

The bill would take effect September 1, 2001, and would apply only to a permit application filed after the bill's effective date.

**SUPPORTERS
SAY:**

CSHB 3587 would narrow the exemptions from groundwater conservation districts' permitting requirements. The large number of wells that fall under the broad exemptions allowed under current law inhibit a district's ability to manage its groundwater resources. Under the current exemptions, a well that would not require a permit could produce in one year enough water to cover 28 acres one-foot deep. In addition, some irrigators have begun to shift away from center pivot irrigation, which requires a well permit, to irrigation based on multiple pivots drawing from smaller wells in order to take advantage of the current exemptions.

CSHB 3587 would give more control over local water resources to the districts. The Legislature has determined that groundwater conservation districts are the state's preferred method of groundwater management. A district still would have the authority to exempt a well from permitting requirements. However, the district also would have an additional tool to help manage an aquifer's resources.

OPPONENTS SAY: CSHB 3587 would infringe on the rights of property owners. Texas adheres to the “rule of capture,” which allows, with only a few exceptions, landowners to pump as much groundwater as they choose from their land. This bill would undermine the rule of capture by requiring more property owners to obtain a permit to pump groundwater from their land.

NOTES: The substitute made minor changes to the original bill, including that an exemption would not affect a district’s authority to impose fees or levy taxes.

The companion bill, SB 1552 by Barrientos, has been referred to the Senate Natural Resources Committee.