

## **BILL ANALYSIS**

C.S.H.B. 3025  
By: King, Tracy O.  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that the number of open, uncovered, abandoned, or deteriorated water wells in Texas is increasing and causing serious economic and environmental harm. C.S.H.B. 3025 seeks to address this issue by revising provisions relating to the regulation of such wells.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3025 amends the Occupations Code to change the action that a landowner or other person who possesses a deteriorated water well is required to take after learning of the well's condition from having the well plugged or capped under certain standards and procedures to having the well repaired or plugged under those standards and procedures.

C.S.H.B. 3025 amends the Water Code to distinguish between an abandoned well and a deteriorated well in provisions relating to the powers and duties of a groundwater conservation district. The bill includes an abandoned well among the types of wells for which a district may require the owner or lessee of land on which the well is located to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400 pounds. The bill specifies in that requirement for an open or uncovered well or an abandoned well that the covering be not easily removed.

C.S.H.B. 3025 requires a district to require the owner or lessee of land on which a deteriorated well is located to plug the well or repair the well sufficiently to prevent pollution of any water in Texas, including groundwater, and requires the district to notify the owner or lessee of this requirement. The bill authorizes any person, firm, or corporation employed by the district not later than the 10th day after the date the owner or lessee receives the notice from the district to go on the owner's or lessee's land and repair or plug the well safely and securely if the owner or lessee fails or refuses to repair or plug the well in accordance with district rules. The bill replaces references to closing or capping a well with references to repairing or plugging a well in provisions relating to a deteriorated well.

C.S.H.B. 3025 authorizes an employee of the Bandera County River Authority and Groundwater District to cap an open, uncovered, or abandoned well, or repair or plug a deteriorated well, if the employee has received training for capping, repairing, or plugging a well located in a karst

topographic area. The bill exempts an employee acting in that manner from the requirement to have a license under Occupations Code provisions regulating water well drillers to perform the authorized action.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3025 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Section 1901.255, Occupations Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Not later than the 30th ~~[180th]~~ day after the date a landowner or other person who possesses an abandoned ~~[or deteriorated]~~ well learns of its condition, the landowner or other person shall have the well plugged or capped under standards and procedures adopted by the commission.

(c-1) Not later than the 10th day after the date a landowner or other person who possesses a deteriorated well learns of its condition, the landowner or other person shall have the well plugged under standards and procedures adopted by the commission.

SECTION 2. The heading to Section 36.118, Water Code, is amended.

SECTION 3. Sections 36.118(a), (b), (c), (d), and (e), Water Code, are amended to read as follows:

(a) A district may require the owner or lessee of land on which an open or uncovered well or abandoned well is located to keep the well permanently closed or capped with a covering that is:

(1) capable of sustaining weight of at least 400 pounds; and

(2) not easily removed~~[, except when the well is in actual use].~~

(b) In ~~[As used in]~~ this section:

(1) "Abandoned well" has the meaning assigned by Section 1901.255, Occupations Code.

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 1901.255, Occupations Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Not later than the 180th day after the date a landowner or other person who possesses an abandoned ~~[or deteriorated]~~ well learns of its condition, the landowner or other person shall have the well plugged or capped under standards and procedures adopted by the commission.

(c-1) Not later than the 180th day after the date a landowner or other person who possesses a deteriorated well learns of its condition, the landowner or other person shall have the well repaired or plugged under standards and procedures adopted by the commission.

SECTION 2. Same as introduced version.

SECTION 3. Section 36.118, Water Code, is amended by amending Subsections (a), (b), (c), (d), and (e) and adding Subsection (g) to read as follows:

(a) A district may require the owner or lessee of land on which an open or uncovered well or abandoned well is located to keep the well permanently closed or capped with a covering that is:

(1) capable of sustaining weight of at least 400 pounds; and

(2) not easily removed~~[, except when the well is in actual use].~~

(b) In ~~[As used in]~~ this section:

(1) "Abandoned well" has the meaning assigned by Section 1901.255, Occupations Code.

(2) "Deteriorated well" has the meaning assigned by Section 1901.255, Occupations Code.

(3) "Open [~~,"open]~~ or uncovered well" means an artificial excavation dug or drilled for the purpose of exploring for or producing water from the groundwater reservoir and is not capped or covered as required by this chapter.

(c) A district shall require the owner or lessee of land on which a deteriorated well is located to plug the well or repair the well sufficiently to prevent pollution of any water in this state, including groundwater. The district shall notify the owner or lessee of a requirement under this subsection. If the owner or lessee fails or refuses to plug [~~close or cap]~~ the well [~~in compliance with this chapter]~~ in accordance with district rules, not later than the 10th day after the date the owner or lessee receives the notice from the district, any person, firm, or corporation employed by the district may go on the land and plug [~~close or cap]~~ the well safely and securely.

(d) Reasonable expenses incurred by the district in plugging [~~closing or capping]~~ a well constitute a lien on the land on which the well is located.

(e) The lien arises and attaches upon recordation in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

- (1) the existence of the well;
- (2) the legal description of the property on which the well is located;
- (3) the approximate location of the well on the property;
- (4) the failure or refusal of the owner or lessee, after notification, to plug [~~close]~~ the well within 10 days after the notification;

(5) the plugging [~~closing]~~ of the well by the district, or by an authorized agent, representative, or employee of the district; and

(6) the expense incurred by the district in plugging [~~closing]~~ the well.

(2) "Deteriorated well" has the meaning assigned by Section 1901.255, Occupations Code.

(3) "Open [~~,"open]~~ or uncovered well" means an artificial excavation dug or drilled for the purpose of exploring for or producing water from the groundwater reservoir and is not capped or covered as required by this chapter.

(c) A district shall require the owner or lessee of land on which a deteriorated well is located to plug the well or repair the well sufficiently to prevent pollution of any water in this state, including groundwater. The district shall notify the owner or lessee of a requirement under this subsection. If the owner or lessee fails or refuses to repair or plug [~~close or cap]~~ the well [~~in compliance with this chapter]~~ in accordance with district rules, not later than the 10th day after the date the owner or lessee receives the notice from the district, any person, firm, or corporation employed by the district may go on the land and repair or plug [~~close or cap]~~ the well safely and securely.

(d) Reasonable expenses incurred by the district in repairing or plugging [~~closing or capping]~~ a well constitute a lien on the land on which the well is located.

(e) The lien arises and attaches upon recordation in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

- (1) the existence of the well;
- (2) the legal description of the property on which the well is located;
- (3) the approximate location of the well on the property;
- (4) the failure or refusal of the owner or lessee, after notification, to repair or plug [~~close]~~ the well within 10 days after the notification;

(5) the repairing or plugging [~~closing]~~ of the well by the district, or by an authorized agent, representative, or employee of the district; and

(6) the expense incurred by the district in repairing or plugging [~~closing]~~ the well.

(g) An employee of the Bandera County River Authority and Groundwater District may cap an open, uncovered, or abandoned well, or repair or plug a deteriorated well, if the employee has received training for

capping, repairing, or plugging a well located in a karst topographic area. An employee acting under this section is not required to have a license under Chapter 1901, Occupations Code, to perform the action authorized by this subsection.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.