

- SUBJECT:** Exemptions from permitting by groundwater conservation districts
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 11 ayes — Ritter, T. King, Beck, Creighton, Hopson, Keffer, Larson, Lucio, Martinez Fischer, D. Miller, Price
- 0 nays
- WITNESSES:** For — Gregory Ellis; Brian Sledge; (*Registered, but did not testify:* Janet Adams, Jeff Davis County Underground Water Conservation District and Presidio County Underground Water Conservation District; Jim Conkwright, High Plains Underground Water Conservation District No. 1; Harvey Everheart, Mesa Underground Water Conservation District; Ricky Harston, Glasscock Groundwater Conservation District; Scott Holland, Irion Co. W.C.D. and Sterling County Underground Water Conservation District; Zach Holland, Bluebonnet Groundwater Conservation District; Billy Howe, Texas Farm Bureau; Dean Robbins, Texas Water Conservation Association; Cindy Weatherby, Santa Rita Underground Water Conservation District)
- Against — Michael Maurer, Sr.
- BACKGROUND:** Under Ch. 36 of the Water Code, a groundwater conservation district may exempt certain wells from the requirement of obtaining a drilling permit, an operating permit, or any other permit required by that chapter or the district's rules.
- The Water Code includes a mandatory statutory exemption for wells used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres that is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day.
- DIGEST:** HB 2420 would amend language in the Water Code that prohibits a groundwater conservation district from requiring a permit for certain wells to state that the exemption applied to “a well used solely for domestic use or for providing water for livestock or poultry, if the well is: located on a tract of land larger than 10 acres; and drilled, completed, or equipped so

that it is incapable of producing more than 25,000 gallons of groundwater a day.”

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

HB 2420 would make some grammatical and punctuation changes to eliminate some confusion and clarify the original intent of the amended section of the Water Code.

When language on mandatory statutory exemptions from the requirement to obtain permits for certain wells first was put into the Water Code in 2001, the original intent was that three criteria — tract size, well capacity size, and purpose of use — would have to be present in order for the mandatory statutory exemption to apply. However, the current wording in statute is not clear and could be interpreted to mean that the criteria on land tract size and well capacity size applied only to wells providing water to livestock and poultry and not to wells that were solely for domestic use. This bill would clarify that those provisions applied to both domestic use and livestock/poultry use.

While concern has been expressed that having the same criteria apply to all would restrict the ability of a domestic user to drill a well without having to obtain a permit, the practice under current law is for any domestic user with a tract of land less than 10 acres to have to obtain a permit unless exempted under local groundwater district rules. This reflects the original intent of the legislation. HB 2420 would make a clarifying change to the language, but would not change current practice.

**OPPONENTS
SAY:**

Current law under the Water Code on exemptions from obtaining a permit for a well can be interpreted to apply separate criteria to wells used for domestic use and those used for providing water to livestock or poultry, and the law should remain as it is. Having land track size and well capacity size apply to domestic use could place restrictions on some domestic users of groundwater.

NOTES:

The companion bill, SB 691 by Estes, passed the Senate by 31-0 on March 29 and was reported favorably, without amendment, by the House Natural Resources Committee on April 7.