

## **BILL ANALYSIS**

C.S.H.B. 2647  
By: Ashby  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, groundwater conservation districts are required to reduce or curtail groundwater pumping in certain circumstances. Interested parties assert that reducing or curtailing such pumping by power plants or associated mines could cause the plant to shut down for periods of time. C.S.H.B. 2647 seeks to prevent any threat to public health, safety, or welfare by requiring a district to delay implementation of a groundwater pumping reduction by an existing well used to support a power plant or associated mine in certain circumstances.

### **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. 2647 amends the Water Code to entitle an owner or operator of a well that produces groundwater used to support the operation of a power generation facility or a mine that provides fuel to a power generation facility to petition a groundwater conservation district for a delay in the effective date of any district action that would reduce or curtail production from the well or limit the groundwater production rate of the well to an amount that is less than the maximum annual amount of withdrawal as of September 1, 2014, authorized by the permit, regardless of whether the permit was issued by the district or the Railroad Commission of Texas, or to an amount that is less than the maximum annual historical amount of withdrawal recorded before such date if the well was in operation on that date and no permit from any entity was required for the operation of the well. The bill authorizes the owner or operator of a well to petition for such a delay. The bill requires the district, after receipt of the petition, to hold a public hearing and after the hearing to make a final determination as to whether the proposed reduction or curtailment in groundwater production would threaten public health or safety or the reliability of the electric grid. The bill requires a final determination to have been made by the district in order for the proposed reduction or curtailment for which the owner or operator is seeking a delay to take effect.

C.S.H.B. 2647 requires a district to delay the effective date of a proposed reduction or curtailment in groundwater production to a date not earlier than seven years after the date that the final determination is made if the district determines that the reduction or curtailment would threaten public health or safety or the reliability of the electric grid. The bill authorizes an owner or operator who receives a delay to petition the district at any time before the delayed effective date of the proposed reduction or curtailment to delay the effective date a second time for an

additional three years. The bill requires the district, after receiving the petition, to hold a public hearing and after the hearing to make a final determination to approve the additional three-year delay if the district determines that the owner or operator has engaged in good faith efforts to identify and begin implementing strategies to comply with the proposed reduction or curtailment and that implementation of the proposed reduction or curtailment in groundwater production on the delayed effective date would threaten public health or safety or the reliability of the electric grid. The bill requires the district, in making a final determination under the bill's provisions, to request, obtain, and give great weight to an opinion issued by the Public Utility Commission of Texas.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

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

While C.S.H.B. 2647 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 36.117, Water Code, is amended by adding Subsection (m) to read as follows:

(m) This subsection applies to a well that produces groundwater directly or indirectly used to support the operation of a power generation facility or a mine that provides fuel to a power generation facility, including production for dewatering, potable water, and depressurization.

Except as a result of a permit amendment requested by the permit holder, a district may not reduce or curtail production from a well or limit the groundwater production rate of a well to a rate or amount that is less than:

- (1) the maximum rate or amount of withdrawal as of September 1, 2014, authorized by the permit, whether the permit was issued by the district or the Railroad Commission of Texas; or
- (2) the maximum annual historical rate or amount of withdrawal recorded before September 1, 2014, if the well was in operation on that date and no permit from any entity was required for the operation of the well.

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1175 to read as follows:

Sec. 36.1175. POWER GENERATION EXEMPTION. (a) This section applies to a well that produces groundwater used to support the operation of a power generation facility or a mine that provides fuel to a power generation facility, including production for boiler makeup water, fire suppression, dewatering, potable water, and depressurization.

(b) An owner or operator of a well to which this section applies is entitled to petition the district for a delay in the effective date of any district action that would reduce or curtail production from a well or limit the groundwater production rate of a well to an amount that is less than:

- (1) the maximum annual amount of withdrawal as of September 1, 2014, authorized by the permit, regardless of whether the permit was issued by the district or the Railroad Commission of Texas; or
- (2) the maximum annual historical amount of withdrawal recorded before September 1, 2014, if the well was in operation on that date and no permit from any entity was required for the operation of the well.

(c) The owner or operator of a well subject to this section may petition for a delay described by Subsection (b). After receipt of

the petition, the district shall hold a public hearing and after the hearing shall make a final determination as to whether the proposed reduction or curtailment in groundwater production would threaten public health or safety or the reliability of the electric grid. The proposed reduction or curtailment for which the owner or operator is seeking a delay may not take effect until the district has made a final determination under this subsection.

(d) If the district determines under Subsection (c) that a proposed reduction or curtailment in groundwater production would threaten public health or safety or the reliability of the electric grid, the district shall delay the effective date of the reduction or curtailment to a date not earlier than seven years after the date that the final determination is made.

(e) If an owner or operator receives a delay under Subsection (d), the owner or operator may petition the district at any time before the delayed effective date of the proposed reduction or curtailment to delay the effective date a second time for an additional three years as provided by this subsection. After receiving the petition, the district shall hold a public hearing and after the hearing shall make a final determination to approve the additional three-year delay if the district determines that:

(1) the owner or operator has engaged in good faith efforts to identify and begin implementing strategies to comply with the proposed reduction or curtailment; and

(2) implementation of the proposed reduction or curtailment in groundwater production on the date set under Subsection (d) would threaten public health or safety or the reliability of the electric grid.

(f) In making a final determination described by Subsection (c), (d), or (e), the district shall request, obtain, and give great weight to an opinion issued by the Public Utility Commission of Texas.

No equivalent provision.

SECTION 2. The changes in law made by this Act apply only to a reduction or curtailment in groundwater production ordered by a groundwater conservation district on or after the effective date of this Act. A reduction or curtailment in groundwater production ordered by a groundwater conservation district before the

effective date of this Act is governed by the law in effect at the time the reduction or curtailment in groundwater production was ordered, and the former law is continued in effect for that purpose.

SECTION 2. 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, 2015.

SECTION 3. Same as introduced version.