

## **BILL ANALYSIS**

C.S.H.B. 726  
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Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been suggested that certain groundwater conservation districts have violated private property rights by unduly impeding, delaying, or denying the issuance of groundwater permits. C.S.H.B. 726 seeks to help address these concerns by setting out provisions that touch on a number of issues relating to the regulation of groundwater.

### **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. 726 amends the Water Code to replace as one of the considerations a groundwater conservation district is required to make before granting or denying certain permits or permit amendments the consideration of whether the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders with a consideration of whether the projected effect of the proposed production unreasonably affects existing groundwater and surface water resources, existing permit holders, or registered well owners. The bill makes district rules in effect on the date an application for a permit or a permit amendment is submitted to the district the only district rules that may govern the district's decision to grant or deny the application.

C.S.H.B. 726 revises provisions relating to the export of groundwater out of a district. The bill prohibits a district from requiring a separate permit for the export of groundwater for use outside of the district. The bill changes the exception to the prohibition against a district imposing more restrictive requirements or conditions on exporters than the district imposes on in-district users from an exception as provided by provisions relating to the increase or transfer of groundwater on or after a given date to an exception as provided by provisions relating to export fees and surcharges. The bill specifies that the export fees or surcharges imposed by a district are imposed on the holder of an operating permit for water exported for use outside of the district. The bill requires a district to extend, in a prescribed manner, a term for an export permit that existed on May 27, 2019, on or before its expiration to a term that is not shorter than the term of an operating permit for the production of water to be exported that is in effect at the time of the extension and for each additional term for which that operating permit for production is renewed or remains in effect under certain provisions. The bill establishes that a permit extended as such continues to be subject to conditions contained in the permit as issued before the extension. The bill repeals provisions relating to the issuance and terms and conditions of a permit for the export

of groundwater out of a district.

C.S.H.B. 726 prohibits a district from adopting a moratorium on the issuance of a permit or permit amendment unless the district complies with applicable notice and hearing procedures and makes written findings supporting the district's determination regarding the issuance, including the district's justification for imposing the moratorium, if applicable. The bill provides for the notice and public hearing requirements, the imposition of a temporary moratorium, and the expiration of a moratorium.

C.S.H.B. 726 prohibits a moratorium on the issuance of a permit or permit amendment that is adopted by a district before September 1, 2019, from continuing in effect after November 30, 2019. The bill provides for the validation and confirmation of certain permits to export groundwater approved by districts before the bill's effective date. The bill authorizes a district that imposed an export fee or surcharge on the holder of a permit to export groundwater before the bill's effective date to continue to impose the fee or surcharge on the holder for the duration of the permit and any renewal of the permit if the holder of the permit to export groundwater is not the same person who holds the associated operating permit.

C.S.H.B. 726 repeals Special District Local Laws Code provisions authorizing the Central Texas Groundwater District to impose additional requirements or limitations on a permit designed to minimize certain negative impacts relating to a transfer of groundwater out of the district and authorizing the Brush Country Groundwater Conservation District to impose a fee or surcharge as an export fee and that exempts such an imposed fee or surcharge from certain statutory restrictions.

C.S.H.B. 726 repeals the following provisions:

- Sections 8810.103 and 8852.104, Special District Local Laws Code
- Sections 36.122(f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (q), Water Code

#### **EFFECTIVE DATE**

September 1, 2019.

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

While C.S.H.B. 726 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute, with respect to considerations a groundwater conservation district is required to make before granting or denying certain permits or permit amendments, does not include the consideration of whether the projected effect of the proposed production unreasonably affects aquifer conditions, artesian pressure, depletion, subsidence, or exempt registered wells, but includes consideration of whether the projected effect unreasonably affects registered well owners.

The substitute repeals Special District Local Laws Code provisions relating to the Central Texas Groundwater District's imposition of certain additional requirements or limitations on a permit and to the Brush Country Groundwater Conservation District's imposition of a fee or surcharge as an export fee and repeals provisions of that code to conform to the repeal of other provisions.

