

SUBJECT: Creating the Clear Creek Watershed Regional Flood Control District

COMMITTEE: Natural Resources — favorable, with amendments

VOTE: 6 ayes — Combs, Corte, King, R. Lewis, Puente, Walker  
0 nays  
3 absent — Counts, Yost, Stiles

WITNESSES: For — John Hargrove, Richard Burdine, City of Pearland; Doug Kneupper, City of Friendswood  
  
Against — Ray Rogers, Clear Creek Drainage District  
  
On — David Kocurek, Clear Creek Drainage District

DIGEST: HB 3179 would create the Clear Creek Watershed Regional Flood Control District, including all or parts of Harris, Brazoria, Fort Bend and Galveston counties, as a conservation and reclamation district under Texas Constitution Art. 16, sec. 59. Creation of the district would be subject to voter confirmation.

**Board membership and powers.** A five-member unpaid board would be appointed by the commissioners courts of Brazoria, Fort Bend and Galveston counties (one each) and Harris County (two) to four-year terms. The members would have to hold elective office in a political subdivision in the district, other than the office of county commissioner. Directors could be reimbursed for travel expenses. Three directors would constitute a quorum and an action of the board would be valid only with the affirmative vote of three members.

The board would be required to establish an advisory committee composed of one representative from each political subdivision within the district, appointed by elected members of each political subdivision.

The district would be required to develop a flood control and drainage plan for all land in the district, including the main channel and tributaries of

Clear Creek. In accordance with the plan the district would be required to construct improvements on the main channel of Clear Creek to reduce or control flooding, prevent or remove deposits of silt or obstructions, conduct flood-control-related maintenance and approve and coordinate all flood control improvements and infrastructure alterations in the district.

The district would have primary jurisdiction within its boundaries over all matters affecting flood control and drainage and could take any action necessary to assure compliance with the flood control and drainage plan. It would also be required to advise, consult and cooperate with local governments on matters regarding the watershed and to cooperate with other political subdivisions. The district could also engage in other watercourse or land improvements in accordance with the plan and under written agreement with the political subdivision. The district could issue property tax bonds and revenue bonds.

**District engineer and plan adoption process.** The board would be required to appoint a professional civil engineer who would be entitled to compensation and who would be required to execute a bond conditioned on the faithful performance of the district engineer's duties.

The district engineer would prepare a flood control and drainage plan that provides for control and abatement of flood water and other excess water and reclamation and proper drainage of land in the district. The engineer could consider and use all or part of any previously prepared flood control and drainage plan that covers any area in the district, including the plan adopted by the Clear Creek Watershed Steering Committee.

After public notification and hearing, the board could amend the plan. The board would be required to submit the plan to the commissioners courts for recommendations. If the board and the commissioners courts could not agree on changes to the plan, the board would be required to submit the disputed provisions to the district engineer for resolution. The decision of the engineer would be final.

**Plan restrictions.** A political subdivision or person could not engage in an activity that would affect flood control or drainage in the district without obtaining a certificate from the board. The district engineer would be

required to review the proposed activity to determine the effect of the activity on flood control and drainage and the compatibility with the plan.

If the district engineer and the submitting entity disagreed on the proposed activity, the engineer would be required to recommend that the board deny issue of the certificate. Notice and hearing would be required to deny a certificate.

A political subdivision could receive an exemption from the board for an activity that the district engineer found would have minimal impact on flood control and drainage.

**Confirmation election.** The district could not exercise power granted in the act until the district was confirmed by a majority of resident electors in an election held within two years of the act's effective date; the bill would take effect immediately if approved by two thirds of the membership of each house. A subsequent confirmation election could be held after 12 months following the most recent confirmation election. If not confirmed within five years, the act would expire.

**Miscellaneous.** The act would be construed liberally. Provisions standard to special and general law water districts would be enacted.

SUPPORTERS  
SAY:

HB 3179 would create a cross-county political entity in southeast Texas that would implement a plan to reduce flooding problems that have affected the area since about 1960. The district is specially designed to incorporate local input and past efforts in addressing flooding problems.

The Clear Creek watershed area includes over 20 political subdivisions that have been working together over the past five years in an ad hoc steering committee to develop a flood control plan. HB 3179 would create a type of water district recognized by existing state laws and the Texas Constitution that would be more capable of financing and managing a multimillion dollar project than alternative approaches requiring negotiated contracts between local entities.

HB 3179 includes provisions standard to many water districts, but it also contains special provisions, such as the appointment of the advisory

committee and requirements to consider the steering committee plan, to adequately incorporate steering committee opinion and efforts. It is highly unlikely that the board would ignore steering committee efforts. It would most likely build on the plan and make adjustments to meet changing patterns of residential and commercial development.

A five-member board is sufficient to adequately represent local governments and is the right size to make decisions in a timely manner. Expanding the board to 20 members would create an unwieldy organization and could delay needed improvements.

HB 3179 satisfies concerns about public accountability and input for most people in the district. County commissioners courts are accountable to the voters and would be required to appoint members also accountable to the voters. (Board members would not be compensated for their duties on the flood control district and therefore would not be violating constitutional prohibitions against holding two public offices.) All engineer recommendations would be submitted to the board for final decision, with opportunities for public hearings.

**OPPONENTS  
SAY:**

HB 3179 does not sufficiently provide for input from political subdivisions within the district and gives too much power to the district. Five members cannot adequately represent a district that spans over 20 local governments including cities, water districts, utility districts and councils of governments.

The district's board authority should be more limited to protect the desires and concerns of local entities. The board should be required to use the steering committee plan or should be bound to incorporate the advice of the technical advisory committee. The district should be required to hire the same engineer who has worked with the steering committee or the engineer's authority should be reduced. The clause allowing liberal construction of the act should be removed.

HB 3179 should also include provisions for the removal of board members deemed unsatisfactory by the local community and allow for local election of board members. If voters do not trust the accountability and powers of the board, they are less likely to confirm the district's establishment, which would slow the construction of much needed improvements.

NOTES:

The committee added six amendments: to add clarifying language, to require the consideration of the plan adopted by the Clear Creek Watershed Steering Committee, to allow an exemption for political subdivisions from board certification, to make changes to the district boundaries, to require the appointment of an advisory committee and to require board consultation with local governments on watershed matters.