

- SUBJECT:** Creation and conversion of certain water districts
- COMMITTEE:** Natural Resources — committee substitute recommended
- VOTE:** 8 ayes — Puente, Callegari, Hope, Campbell, R. Cook, Geren, Hamilton, Hardcastle
- 0 nays
- 1 absent — Wolens
- SENATE VOTE:** On final passage, May 1 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Donald Lee, Texas Conference of Urban Counties
- Against — None
- BACKGROUND:** The Texas Constitution authorizes the creation of various general-law water districts. Water Code, ch. 51 governs water control and improvement districts. Ch. 53 governs freshwater supply districts.
- DIGEST:** CSSB 1304 would amend the Notice to Purchaser form that must be provided to purchasers of real property within a water district to state:
- that the district was a governmental agency and political subdivision of the state;
 - that the district was governed by a board of directors; and
 - the address and telephone number for contacting the district.
- The executive director of the Texas Commission on Environmental Quality (TCEQ) would have to make a district's Notice to Purchaser forms available on the Internet.
- Water control and improvement districts.** If a county commissioners court or TCEQ granted a petition to create a water control and improvement district, it would have to file the order creating the district with the applicable

county clerks within 15 days. A filing would have to explain that the order would have to be confirmed and ratified by an election.

In a resolution to convert to a water control and improvement district, a water district's governing body would have to include a list of the powers the district desired to retain after conversion and request the county commissioners court or TCEQ to hold a hearing on the conversion. Promptly after the resolution was filed with the commissioners court or TCEQ, either entity would have to set a date, time, and place for a hearing.

If a commissioners court or TCEQ found in favor of conversion, it would have to include in its order a list of the powers to be acquired by the district and a list of the powers to be retained. An final order on conversion would be subject to appeal for 30 days. If an order was appealed to a court, the court's judgment would become final 30 days after it was entered and would not be subject to further appeal. A court's final judgment would be sent to the clerk of the commissioners court or TCEQ, and either entity would have to conform its order to the court's judgment. On entry of an order of conversion, a district would have the powers of a water control and improvement district and the authority to dispose of waste and control storm water.

An entity that approved creation of a district also would have to approve any division of the district. If the Legislature had created a district, then TCEQ would have to approve a division. If voters approved division of the district, the board of directors would have to file an order dividing the district with the applicable county clerks.

Freshwater supply districts. In a hearing to create a freshwater supply district, any person whose land would be affected by creation of the district could testify at the hearing. A commissioners court would have to grant a petition to create a district if it found that organization of the district was feasible and practical, the land and residents would benefit, a public necessity existed, and it would further the public welfare. If the commissioners court did not make the findings, it would refuse the petition. In addition, it could exclude lands that would not benefit from formation of the district.

A commissioners court granting a petition to create a district would have file

the order with the applicable county clerks. An order would have to explain that the district had to be confirmed and ratified by election.

If a commissioners court refused to grant a petition, a person could appeal the decision by giving notice of the appeal in open court and filing a \$2,500 appeal bond. After filing of an appeal, the commissioners court clerk would have to file all records of the proceedings with the clerk of the district court where the appeal was taken. Trial and decision on the appeal would be by the court without a jury. An appellant could contest any matters that had been presented in the commissioners court, the validity of the act under which the district was proposed to be created, or the regularity of previous proceedings. A commissioners court would have to conform its order on the petition to the decree ordered by the court of final jurisdiction.

SB 1304 would allow a water control and improvement district to be converted into a freshwater supply district. The governing body of a district would have to adopt a resolution requesting the county commissioners court or TCEQ to hold a hearing on the conversion. Promptly after the resolution was filed with the commissioners court or TCEQ, either entity would have to set a date, time, and place for a hearing. Notice of the conversion hearing would have to be published.

If a commissioners court or TCEQ found that conversion would serve the best interest of the district and be a benefit to the land and property in the district, it would enter an order making the finding, and the district would become a freshwater supply district. If a commissioners court or TCEQ did not make the finding, it would enter an order against conversion of the district. An order would be subject to appeal or review for 30 days after the order was entered.

Current law provisions for converting a water control and improvement district into a freshwater supply district would be repealed.

The bill would take effect January 1, 2004.

NOTES:

The committee substitute made a number of changes to the Senate bill as engrossed including:

- requiring the executive director of TCEQ to post Notice of Purchase

- forms on the Internet;
- eliminating a procedure for holding an election on conversion into a water control and improvement district; and
 - providing a procedure for appealing a decision on a petition to create a freshwater supply district.