

SUBJECT: Creating groundwater districts in priority groundwater management areas

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 7 ayes — Ritter, Callegari, Corte, T. King, Lucio, D. Miller, Smithee

0 nays

4 absent — Creighton, Frost, Laubenberg, Martinez Fischer

SENATE VOTE: On final passage, April 23 — 30-0, on Local and Uncontested Calendar

WITNESSES: For — Greg Ellis, Texas Alliance of Groundwater Districts; (*Registered, but did not testify*: Harvey Everheart, Mesa Underground Water Conservation District)

Against — None

BACKGROUND: To enable effective management of the state's groundwater resources in areas where critical groundwater problems exist or may exist in the future, the Legislature has authorized the Texas Commission on Environmental Quality (TCEQ), the Texas Water Development Board (TWDB), and the Texas Parks and Wildlife Department (TPWD) to study, identify and delineate priority groundwater management areas and initiate the creation of groundwater conservation districts within those areas, if necessary. Critical groundwater problems are defined as shortages of surface water or groundwater, land subsidence resulting from withdrawal of groundwater, or contamination of groundwater.

Water Code, ch. 35, sets forth the process by which TCEQ recommends creation of new groundwater conservation districts or addition of land to an existing district, pursuant to the priority groundwater management area process.

DIGEST: SB 2319 would amend the Water Code, ch. 35, governing creation of groundwater conservation districts in priority groundwater management areas.

The bill would remove the option for the TCEQ to recommend areas not currently in a groundwater conservation district to be added to an existing district.

It also would require a groundwater conservation district created in a priority groundwater management area to be composed of territory within two or more contiguous counties, unless the TCEQ determined that a district within noncontiguous counties would be more effective and efficient groundwater management.

A groundwater conservation district created in a priority groundwater management area could be a single-county district only if:

- the territory within the single county was the only area within the designated priority groundwater management area that was not within a district; or
- there were other areas within the designated priority groundwater management area, but they were not contiguous and the TCEQ determined that creating a single district composed of two or more noncontiguous areas would result in less effective or less efficient management of groundwater resources than creating a single county district.

The TCEQ could consider territory in two separately designated priority groundwater management areas to be within the same management area if they shared a common boundary and at least one common aquifer.

A groundwater conservation district would have to vote on the addition of a priority groundwater management area recommended by TCEQ within 120 days of receiving the copy of the TCEQ order. If the district voted to accept the recommended addition, an election would have to be held within 270 days.

If the proposition was defeated, or if the board voted not to accept addition to the priority groundwater management area, then the TCEQ would have to create one or more districts covering the management area before the second anniversary of the TCEQ order designating a management area, or 180 days later if the Legislature were in session and a bill had been filed to create a groundwater conservation district in all or part of the priority groundwater management area or to add all or part of that management area to an existing conservation district.

If it did not affect the deadlines for district creation, the TCEQ could modify the recommendation in its order for groundwater conservation district creation in a management area to reflect the failure of an area to be added to an existing district, to account for the creation of any new districts, or to reflect the addition of any other territory in the management area to an existing district during the intervening period.

The TCEQ could not create a groundwater conservation district in a priority groundwater management area before September 1, 2011, in a single county where the total surface water use was more than 50 times the total groundwater production, and that was located in a priority groundwater management area.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.