

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 635
By: Ogden
Natural Resources
4/22/1999
Committee Report (Substituted)

DIGEST

City and county leaders in Robertson and Brazos Counties have spent 18 months negotiating an agreement to form a groundwater conservation district as specified by Article XVI, Section 59, of the Texas Constitution. C.S.S.B. 365 would create the Robertson-Brazos County Groundwater Conservation District.

PURPOSE

As proposed, C.S.S.B. 635 creates the Robertson-Brazos County Groundwater Conservation District under Article XVI, Section 59, of the Texas Constitution.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the board of directors of the Robertson-Brazos County Groundwater Conservation District in SECTION 5(d) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. CREATION. Creates a groundwater conservation district, to be known as the Robertson-Brazos County Groundwater Conservation District (district), in Robertson County and Brazos County subject to approval at a confirmation election held under SECTION 9 of this Act. Provides that the district is a governmental agency and body politic and corporate. Provides that the district is created under and is essential to accomplish the purposes of Article XVI, Section 59 of the Texas Constitution.

SECTION 2. DEFINITION. Defines "district."

SECTION 3. BOUNDARIES. Provides that the boundaries of the district are coextensive with the boundaries of Robertson County and Brazos County.

SECTION 4. FINDING OF BENEFIT. Provides that all of the land and other property included within the boundaries of the district will be benefited by works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, of the Texas Constitution. Provides that the district is created to serve a public use and benefit.

SECTION 5. POWERS. Provides that the district has all of the rights, powers, privileges, authority functions, and duties provided by the general law of this state, including Chapters 36 of the Texas Water Code, applicable to groundwater conservation districts created under Article XVI, Section 59 of the Texas Constitution. Provides that Chapter 49, Water Code, does not apply to the district. Provides that this Act prevails over any provisions of general law that are in conflict or inconsistent with this Act. Authorizes the district, by rule, to require a person to obtain a permit from the district for the transfer of groundwater out of the district consistent with Section 36.122, Water Code. Provides that certain transfers of water are not a transfer of groundwater outside the boundaries of the district subject to Section 36.122, Water Code, if the water is not transported and used outside the utility's certified area. Prohibits the district from levying or collecting taxes in the district. Authorizes the board of directors of the district, by rule, to impose reasonable fees on each well for which a permit is issued by the district and which is not exempt from regulation by the district. Sets forth the amounts of fees. Authorizes the fees to be assessed on an annual basis, based on the size of column pipe used in the well; the production capacity of the well; or actual, authorized, or anticipated pumpage. Requires a well meeting the criteria established under Section 36.117, Water Code, including wells used for dewatering and monitoring in the production of coal and lignite, to be exempt from permit requirements, regulations, and fees imposed by the district. Prohibits the district

from taking certain actions.

SECTION 6. BOARD OF DIRECTORS. Provides that the district is governed by a board of six directors. Provides that the directors are appointed as provided by SECTION 7 of this act. Sets forth the terms of the directors. Requires the initial directors to draw lots to determine one initial director from Robertson County and one from Brazos County to serve an initial two-year term. Requires the other initial directors to serve an initial term of four years. Requires each director to qualify to serve as director in the manner provided by Section 36.055, Water Code. Provides that a director serves until the director's successor has qualified. Authorizes the directors to serve consecutive terms. Requires the governing body of the entity that appointed the director who vacated the office to appoint a director to serve the remainder of the term, if there is a vacancy on the board. Prohibits the directors from being entitled to receive compensation for serving as a director, but may be reimbursed for actual, reasonable expenses incurred in the discharge of official duties. Provides that a majority vote of a quorum is required for board action. Provides that if there is a tie vote, the proposed action fails.

SECTION 7. APPOINTMENT OF DIRECTORS. Sets forth the requirements for the appointments of the directors.

SECTION 8. ORGANIZATIONAL MEETING. Requires a majority of directors to convene the organizational meeting of the directors at a location within the district agreeable to a majority of the directors at which time the directors will take office. Requires the organizational meeting to be at the Robertson County Courthouse, if no location can be agreed upon.

SECTION 9. CONFIRMATION ELECTION. Requires the initial board of directors to call and hold an election to confirm the establishment of the district. Requires a conformation election to be conducted as provided by Sections 36.017(b)-(h), Water Code, and Election Code. Provides that if the establishment of the district is not confirmed at an election held under this section before the second anniversary of the effective date of this Act, this Act expires on that date.

SECTION 10. ADDITION OF OTHER COUNTIES TO DISTRICT. Set forth requirements for additional counties to be added to the district.

SECTION 11. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. Provides that the proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the Constitution and the laws of this state, including the governor, who has submitted the notice and Act to the commission. Provides that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. Provides that all requirements of the Constitution and the laws of this state and rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act, are fulfilled and accomplished.

SECTION 12. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Creates the Robertson-Brazos County Groundwater Conservation District (district) subject to approval at a confirmation election held under SECTION 9 of this Act.

SECTION 5.

Amends the SECTION to provide that Chapter 49, Water Code, does not apply to the district. Provides that certain transfers of water are not a transfer of groundwater outside the boundaries of the district subject to Section 36.122, Water Code, if the water is not transported and used outside the utility's certified area. Authorizes, rather than grants authority, to the board of directors of the district, by rule, to impose reasonable fees on each well for which a permit is issued by the district and which is not exempt from regulation by the district. Requires a well meeting the criteria established under Section 36.117, Water Code, including wells used for dewatering and monitoring

in the production of coal and lignite, to be exempt from permit requirements, regulations, and fees imposed by the district. Deletes text regarding the rights, powers, privileges, authority, functions and duties of the district. Makes conforming and nonsubstantive changes.

SECTION 6.

Amends the SECTION to provide that the directors are appointed as provided by SECTION 7 of this Act. Adds text regarding initial directors. Provides that a majority vote of a quorum is required for board action. Provides that if there is a tie vote, the proposed action fails.

SECTION 7.

Amends Subsection (b) to require the Brazos County Commissioners Court to appoint one director who shall represent the rural water supply and agricultural water users of Brazos County.

SECTION 9.

Deletes proposed SECTION regarding statutory interpretation. Adds new SECTION 9 regarding confirmation election. Deletes proposed Subsection (b) providing that Section 41.001 (a), Election Code, does not apply to a confirmation election.

SECTION 10.

Add a new SECTION 10 regarding addition of other counties to the district.