

BILL ANALYSIS

Senate Research Center
77R9958 MI-F

H.B. 1784
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Natural Resources
4/26/2001
Engrossed

DIGEST AND PURPOSE

Texas faces a difficult challenge to develop water policies that serve both state and regional interests. The Texas Constitution authorizes the creation of groundwater districts to plan, develop, and regulate the use of water. H.B. 1784 creates the Brazos Valley Groundwater Conservation District, the Post Oak Savannah Groundwater Conservation District, and the Mid-East Texas Groundwater Conservation District.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of directors of the Brazos Valley Groundwater Conservation District in SECTION 2.07, to the board of directors of the Post Oak Savannah Groundwater Conservation District in SECTION 3.05, and to the board of directors of the Mid-East Texas Groundwater Conservation District in SECTION 4.05 of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE I. GENERAL PROVISIONS

SECTION 1.01. TITLE. Provides that this Act may be referred to as the Central Carrizo-Wilcox Groundwater Management Act.

SECTION 1.02. PURPOSE. Provides that the purpose of this Act is to ratify and create locally controlled groundwater districts in order to protect, recharge, and prevent the waste of groundwater in the central Carrizo-Wilcox area, to control subsidence caused by withdrawal of water from the groundwater reservoirs in that area, and to regulate the transport of water out of the boundaries of the districts.

ARTICLE II. BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT

SECTION 2.01. RATIFICATION OF CREATION. Ratifies the creation by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 (Senate Bill No. 1911), of the Brazos Valley Groundwater Conservation District in Robertson and Brazos counties as required by Section 15(a) of that Act, subject to approval at a confirmation election under Section 2.13 of this article.

SECTION 2.02. DEFINITIONS. Defines "designated management area" and "district."

SECTION 2.03. BOUNDARIES. Provides that the boundaries of the district are coextensive with the boundaries of Robertson and Brazos counties, Texas.

SECTION 2.04. GENERAL POWERS. (a) Provides that, except as otherwise provided by this Act, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36 (Groundwater Conservation Districts), Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. Provides that this article prevails over any provision of general law that is in conflict or

inconsistent with this article, including any provision of Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 (Senate Bill No. 1911).

(b) Provides that the district does not have the authority granted by the following provisions of Chapter 36, Water Code:

- (1) Section 36.105, relating to eminent domain; and
- (2) Sections 36.020 and 36.201-36.204, relating to taxes.

SECTION 2.05. BONDS. Authorizes the district to issue bonds and notes under Sections 36.171-36.181, Water Code, not to exceed \$500,000 total indebtedness at any time.

SECTION 2.06. PURCHASE, SALE, TRANSPORTATION, OR DISTRIBUTION OF WATER. Prohibits the district from purchasing, selling, transporting, or distributing surface water or groundwater for any purpose.

SECTION 2.07. FEES. (a) 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 that is not exempt from regulation by the district. Authorizes a fee to be based on the size of column pipe used by the well or on the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) Requires the initial fee to be based on the amount of water to be withdrawn from the well. Sets forth provisions relating to the initial fee.

(c) Authorizes the district, in addition to the fee authorized under Subsection (b) of this section, to assess a fee on groundwater from a well that is produced for transport outside the district.

(d) Authorizes fees authorized by this section to be assessed annually and to be used to fund the cost of district operations.

SECTION 2.08. GROUNDWATER WELLS UNDER JURISDICTION OF RAILROAD COMMISSION. (a) Provides that a groundwater well drilled or operated within the district under a permit issued by the Railroad Commission of Texas is under the exclusive jurisdiction of the railroad commission and is exempt from regulation by the district.

(b) Authorizes groundwater produced in an amount authorized by a railroad commission permit to be used within or exported from the district without a permit from the district.

(c) Requires the holder of the railroad commission permit, to the extent groundwater is produced in excess of railroad commission authorization, to apply to the district for the appropriate permit for the excess production and is subject to the applicable regulatory fees.

(d) Provides that groundwater produced from a well under the jurisdiction of the railroad commission is generally exempt from water district fees. Authorizes the district to impose either a pumping fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. Prohibits any fee imposed by the district under this subsection from exceeding the fee imposed on other groundwater producers in the district.

SECTION 2.09. REGIONAL COOPERATION. Requires the district to carry out certain duties to provide for regional continuity.

SECTION 2.10. BOARD OF DIRECTORS. (a) Provides that the district is governed by a board of eight directors.

(b) Provides that initial directors serve until permanent directors are appointed under Section

2.11 of this article and qualified as required by Subsection (d) of this section.

- (c) Provides that permanent directors serve staggered four-year terms.
- (d) Requires each director to qualify to serve as a director in the manner provided by Section 36.055 (Sworn Statement, Bond, and Oath of Office), Water Code.
- (e) Provides that a director serves until the director's successor has qualified.
- (f) Authorizes a director to serve consecutive terms.
- (g) Requires that if there is a vacancy on the board, the governing body of the entity that appointed the director who vacated the office appoint a director to serve the remainder of the term.
- (h) Provides that directors are not entitled to receive compensation for serving as a director but are authorized to be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.
- (i) 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 2.11. APPOINTMENT OF DIRECTORS. (a) Requires the Robertson County Commissioners Court to appoint four directors, of whom:

- (1) one must represent municipal interests in the county;
- (2) one must represent agricultural interests in the county;
- (3) one must represent rural water suppliers' interests in the county; and
- (4) one must represent industrial interests in the county.

(b) Requires the Brazos County Commissioners Court to appoint two directors, of whom:
(1) one must represent rural water suppliers' interests in the county; and
(2) one must represent agricultural interests in the county.

(c) Requires the governing body of the City of Bryan to appoint one director.

(d) Requires the governing body of the City of College Station to appoint one director.

(e) Requires each of the governing bodies authorized by this section to make an appointment to appoint the appropriate number of initial directors as soon as practicable following the effective date of this Act, but not later than the 45th day after the effective date of this Act.

(f) Requires the four initial directors from Robertson County to draw lots to determine their terms. Provides that two initial directors from Robertson County and the two initial directors from Brazos County serve terms that expire on January 1 of the second year following the confirmation of the district at an election held under Section 2.13 of this article. Provides that the remaining four initial directors serve terms that expire on January 1 of the fourth year following the confirmation of the district. Requires that on January 1 of the second year following confirmation of the district and every two years after that date, the appropriate governing body appoint the appropriate number of permanent directors.

SECTION 2.12. ORGANIZATIONAL MEETING. Requires a majority of the directors, as soon as practicable after all the initial directors have been appointed and have qualified as provided in this article, to convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. Requires that if no location can be agreed on, the organizational meeting of the directors be at the Robertson County Courthouse.

SECTION 2.13. CONFIRMATION ELECTION. (a) Requires the initial board of directors to call and hold an election on the same date in each county within the district to confirm the creation of the district.

(b) Requires a confirmation election, except as provided by this section, to be conducted as provided by Sections 36.017 (Confirmation and Directors' Election), 36.018 (Inclusion of Municipality), and 36.019 (Confirmation Election in District Including Land in More Than One County), Water Code, and Section 41.001 (Uniform Election Dates), Election Code.

(c) Provides that confirmation of the district requires a vote in favor of confirmation by a majority of the qualified voters voting in the election.

(d) Provides that if the establishment of the district is not confirmed by an election held under this section before the second anniversary of the effective date of this Act, the district is dissolved and this article expires on that date.

ARTICLE III. POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT

SECTION 3.01. CREATION. (a) Creates a groundwater conservation district, to be known as the Post Oak Savannah Groundwater Conservation District, in Milam and Burleson counties, subject to approval at a confirmation election under Section 3.11 of this article. Provides that the district is a governmental agency and a body politic and corporate.

(b) Provides that the district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 3.02. DEFINITIONS. Defines "designated management area" and "district."

SECTION 3.03. BOUNDARIES. Provides that the boundaries of the Post Oak Savannah Groundwater Conservation District are coextensive with the boundaries of Milam and Burleson counties.

SECTION 3.04. GENERAL POWERS. (a) Provides that, except as otherwise provided by this article, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. Provides that this article prevails over any provision of general law that is in conflict or inconsistent with this article, including any provision of Chapter 36, Water Code.

(b) Provides that the district does not have the authority granted by the following provisions of Chapter 36, Water Code:

- (1) Section 36.105, relating to eminent domain; and
- (2) Sections 36.020 and 36.201-36.204, relating to taxes.

SECTION 3.05. FEES. (a) 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 that is not exempt from regulation by the district. Authorizes a fee to be based on the size of column pipe used by the well or on the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) Prohibits fees from exceeding:

- (1) \$1 per acre-foot for water used for irrigating agricultural crops; or
- (2) 17 cents per thousand gallons for water used for any other purpose.

(c) Authorizes the district, in addition to the fee authorized under Subsection (b) of this section, to assess a fee on groundwater from a well that is produced for transport outside the district.

(d) Authorizes fees authorized by this section to be assessed annually and to be used to fund the cost of district operations.

SECTION 3.06. GROUNDWATER WELLS UNDER JURISDICTION OF RAILROAD COMMISSION. (a) Provides that a groundwater well drilled or operated within the district under a permit issued by the Railroad Commission of Texas is under the exclusive jurisdiction of the railroad commission and is exempt from regulation by the district.

(b) Authorizes groundwater produced in an amount authorized by a railroad commission permit to be used within or exported from the district without a permit from the district.

(c) Requires the holder of the railroad commission permit, to the extent groundwater is produced in excess of railroad commission authorization, to apply to the district for the appropriate permit for the excess production and is subject to the applicable regulatory fees.

(d) Provides that groundwater produced from a well under the jurisdiction of the railroad commission is generally exempt from water district fees. Authorizes the district to impose either a pumping fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. Prohibits any fee imposed by the district under this subsection from exceeding the fee imposed on other groundwater producers in the district.

SECTION 3.07. REGIONAL COOPERATION. Requires the district to carry out certain duties to provide for regional continuity.

SECTION 3.08. BOARD OF DIRECTORS. (a) Provides that the district is governed by a board of 10 directors.

(b) Provides that initial directors serve until permanent directors are appointed under Section 3.09 of this article and qualified as required by Subsection (d) of this section.

(c) Provides that permanent directors serve staggered four-year terms.

(d) Requires each director to qualify to serve as a director in the manner provided by Section 36.055, Water Code.

(e) Provides that a director serves until the director's successor has qualified.

(f) Authorizes a director to serve consecutive terms.

(g) Requires the governing body of the entity that appointed the director who vacated the office, if there is a vacancy on the board, to appoint a director to serve the remainder of the term.

(h) Provides that directors are not entitled to receive compensation for serving as a director but are authorized to be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.

(i) Provides that a quorum exists when at least two-thirds of the board members are present. 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 3.09. APPOINTMENT OF DIRECTORS. (a) Requires the Milam County Commissioners Court to appoint five directors, of whom:

(1) one must represent municipal interests in the county;

- (2) one must represent agricultural interests in the county;
- (3) one must represent rural water suppliers' interests in the county;
- (4) one must represent industrial interests in the county; and
- (5) one must represent the interests of the county at large.

(b) Requires the Burleson County Commissioners Court to appoint five directors, of whom:

- (1) one must represent municipal interests in the county;
- (2) one must represent agricultural interests in the county;
- (3) one must represent rural water suppliers' interests in the county;
- (4) one must represent industrial interests in the county; and
- (5) one must represent the interests of the county at large.

(c) Requires each of the governing bodies authorized by this section to make an appointment to appoint the appropriate number of initial directors as soon as practicable following the effective date of this Act, but not later than the 45th day after the effective date of this Act.

(d) Requires the initial directors to draw lots to determine their terms. Provides that two initial directors from Milam County and two initial directors from Burleson County serve terms that expire on January 1 of the second year following the confirmation of the district at an election held under Section 3.11 of this article. Provides that the remaining six initial directors serve terms that expire on January 1 of the fourth year following the confirmation of the district. Requires that on January 1 of the second year following confirmation of the district and every two years after that date, the appropriate commissioners courts appoint the appropriate number of permanent directors.

SECTION 3.10. ORGANIZATIONAL MEETING. Requires that as soon as practicable after all the initial directors have been appointed and have qualified as provided in this article, a majority of the directors convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. Requires that if no location can be agreed upon, the organizational meeting of the directors be at the Milam County Courthouse.

SECTION 3.11. CONFIRMATION ELECTION. (a) Requires the initial board of directors to call and hold an election on the same date in each county within the district to confirm the creation of the district.

(b) Requires a confirmation election, except as provided by this section, to be conducted as provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) Provides that if the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district. Provides that if the majority of qualified voters in a county who vote in the election vote not to confirm the creation of the district, that county is excluded from the district.

(d) Provides that if the creation of the district is not confirmed by an election held under this section before the second anniversary of the effective date of this Act, the district is dissolved and this article expires on that date.

ARTICLE IV. MID-EAST TEXAS GROUNDWATER CONSERVATION DISTRICT

SECTION 4.01. CREATION. (a) Creates a groundwater conservation district, to be known as the Mid-East Texas Groundwater Conservation District, in Leon, Madison, and Freestone counties, subject to approval at a confirmation election under Section 4.11 of this article. Provides that the district is a governmental agency and a body politic and corporate.

(b) Provides that the district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 4.02. DEFINITIONS. Defines "designated management area" and "district."

SECTION 4.03. BOUNDARIES. Provides that the boundaries of the Mid-East Texas Groundwater Conservation District are coextensive with the boundaries of Leon, Madison, and Freestone counties.

SECTION 4.04. GENERAL POWERS. (a) Provides that, except as otherwise provided by this article, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. Provides that this article prevails over any provision of general law that is in conflict or inconsistent with this article, including any provision of Chapter 36, Water Code.

(b) Provides that the district does not have the authority granted by the following provisions of Chapter 36, Water Code:

- (1) Section 36.105, relating to eminent domain; and
- (2) Sections 36.020 and 36.201-36.204, relating to taxes.

SECTION 4.05. FEES. (a) 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 that is not exempt from regulation by the district. Authorizes a fee to be based on the size of column pipe used by the well or on the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) Prohibits the fees from exceeding:

- (1) \$1 per acre-foot for water used for irrigating agricultural crops; or
- (2) 17 cents per thousand gallons for water used for any other purpose.

(c) Authorizes the district, in addition to the fee authorized under Subsection (b) of this section, to assess a fee on groundwater from a well that is produced for transport outside the district.

(d) Authorizes fees authorized by this section to be assessed annually and to be used to fund the cost of district operations.

SECTION 4.06. GROUNDWATER WELLS UNDER JURISDICTION OF RAILROAD COMMISSION. (a) Provides that a groundwater well drilled or operated within the district under a permit issued by the Railroad Commission of Texas is under the exclusive jurisdiction of the railroad commission and is exempt from regulation by the district.

(b) Authorizes groundwater produced in an amount authorized by a railroad commission permit to be used within or exported from the district without a permit from the district.

(c) Requires the holder of the railroad commission permit, to the extent groundwater is produced in excess of railroad commission authorization, to apply to the district for the appropriate permit for the excess production and is subject to the applicable regulatory fees.

(d) Provides that groundwater produced from a well under the jurisdiction of the railroad commission is generally exempt from water district fees. Authorizes the district to impose either a pumping fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. Prohibits any fee imposed by the district under this subsection from exceeding the fee imposed on other groundwater producers in the district.

SECTION 4.07. REGIONAL COOPERATION. Requires the district to carry out certain actions to

provide for regional continuity.

SECTION 4.08. BOARD OF DIRECTORS. (a) Provides that the district is governed by a board of nine directors.

- (b) Provides that initial directors serve until permanent directors are appointed under Section 4.09 of this article and qualified as required by Subsection (d) of this section.
- (c) Provides that permanent directors serve staggered four-year terms.
- (d) Requires each director to qualify to serve as a director in the manner provided by Section 36.055, Water Code.
- (e) Provides that a director serves until the director's successor has qualified.
- (f) Authorizes a director to serve consecutive terms.
- (g) Requires the governing body of the entity that appointed the director who vacated the office, if there is a vacancy on the board, to appoint a director to serve the remainder of the term.
- (h) Provides that directors are not entitled to receive compensation for serving as a director but are authorized to be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.
- (i) 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 4.09. APPOINTMENT OF DIRECTORS. (a) Requires the Leon County Commissioners Court to appoint three directors, of whom:

- (1) one must represent the interests of rural water suppliers or municipalities in the county, or both;
 - (2) one must represent agricultural interests in the county; and
 - (3) one must represent industrial interests in the county.
- (b) Requires the Madison County Commissioners Court to appoint three directors, of whom:
- (1) one must represent the interests of rural water suppliers or municipalities in the county, or both;
 - (2) one must represent agricultural interests in the county; and
 - (3) one must represent industrial interests in the county.
- (c) Requires the Freestone County Commissioners Court to appoint three directors, of whom:
- (1) one must represent the interests of rural water suppliers or municipalities in the county, or both;
 - (2) one must represent agricultural interests in the county; and
 - (3) one must represent industrial interests in the county.
- (d) Requires each of the governing bodies authorized by this section to make an appointment to appoint the appropriate number of initial directors as soon as practicable following the effective date of this Act, but not later than the 45th day after the effective date of this Act.
- (e) Requires the initial directors to draw lots to determine their terms. Provides that a simple majority of the initial directors, if an odd number of initial directors are appointed, or half the initial directors, if an even number of initial directors are appointed, serve terms that expire on January 1 of the fourth year following the confirmation of the district at an election held under

Section 4.11 of this article. Provides that the remaining initial directors serve terms that expire on January 1 of the second year following the confirmation of the district. Requires that on January 1 of the second year following confirmation of the district and every two years after that date, the appropriate commissioners courts appoint the appropriate number of permanent directors.

SECTION 4.10. ORGANIZATIONAL MEETING. Requires that as soon as practicable after all the initial directors have been appointed and have qualified as provided by this article, a majority of the directors to convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. Requires that if no location can be agreed upon, the organizational meeting of the directors be at the Leon County Courthouse.

SECTION 4.11. CONFIRMATION ELECTION. (a) Requires the initial board of directors to call and hold an election on the same date in each county within the district to confirm the creation of the district.

(b) Requires a confirmation election, except as provided by this section, to be conducted as provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) Provides that if the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district. Provides that if the majority of qualified voters in a county who vote in the election vote not to confirm the creation of the district, that county is excluded from the district.

(d) Provides that if the creation of the district is not confirmed by an election held under this section before the second anniversary of the effective date of this Act, the district is dissolved and this article expires on that date.

ARTICLE V. PROCEDURAL REQUIREMENTS; EFFECTIVE DATE

SECTION 5.01. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. Sets forth provisions relating to findings related to procedural requirements.

SECTION 5.02. Effective date: September 1, 2001.