

BILL ANALYSIS

Senate Research Center
77R5338 QS-F

H.B. 3636
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Natural Resources
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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 conservation districts to plan, develop, and regulate the use of water. The Tarrant County Regional Water Control and Improvement District No. 1 was created to operate the water supply reservoirs that serve the Fort Worth region. H.B. 3636 modifies the name of the Tarrant County Water Control and Improvement District No. 1 to the Tarrant Regional Water District, and sets forth provisions relating to the authority of the district and court proceedings involving the district.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 268, Acts of the 55th Legislature, Regular Session, 1957, by amending Sections 1 and 15 and adding Sections 16-22, as follows:

Sec. 1. Changes a reference from the "Tarrant County Water Control and Improvement District No. 1" to the "Tarrant County Regional Water District, a Water Control and Improvement District"(district).

Sec. 15. Requires the board of directors (board) to authorize the sale of the district's bonds, notes, or other obligations at either a public or a private sale, as determined by the board. Provides that the district has all of the powers granted by Chapter 1371 (Obligations for Certain Public Improvements), Government Code. Requires any bonds, notes, or other obligations of the district that may be authorized by the board to be issued and sold in accordance with Chapters 1201-1207, Government Code, as applicable. Deletes emergency clause.

Sec. 16. Provides that Section 8 of this Act is affirmed, and the provisions of this Act with reference to the issuance of bonds, notes, and other obligations of the district are considered complete, except as amended by Section 15 of this Act, and no proceedings or approvals are required except those required by this Act.

Sec. 17. (a) Authorizes the district to make and enforce reasonable rules, permits, orders, and ordinances necessary to accomplish the district's authorized purposes, including certain purposes.

(b) Provides that a person who violates a rule, permit, order, or ordinance of the district commits an offense. Provides that an offense under this section is a Class C misdemeanor, unless specifically provided otherwise by law.

(c) Authorizes a peace officer who arrests or issues a citation to a person for a violation of a rule, permit, order, or ordinance of the district to deliver to the alleged violator a written notice to appear, not later than the 15th day after the date of the notice, before a justice of the peace having jurisdiction over the offense. Requires the person arrested or cited to sign the notice to appear, promising to make an appearance in accordance with the requirements set forth in the notice. Authorizes the arrested person, after signing the notice, to be released. Provides that failure to appear before the justice of the peace having jurisdiction over the offense constitutes a violation of the district's regulations. Authorizes a warrant for the arrest of the person failing to appear to be issued.

(d) Provides that a person who violates a rule, permit, order, or ordinance of the district is subject to a civil penalty of not less than \$50 or more than \$1,000 for each violation or each day of a continuing violation.

(e) Authorizes the district to sue for both injunctive relief and a civil penalty in Tarrant County, in the county in which the defendant resides, or in the county in which the violation or threat of violation occurs. Authorizes the court to grant to the district, without bond or other undertaking, a prohibitory or mandatory injunction as the facts warrant, including a temporary restraining order, temporary injunction, or permanent injunction.

(f) Authorizes a person who is adversely affected by a rule, permit, order, ordinance, or act of the district to sue the district in district court in Tarrant County to set aside the rule, permit, order, ordinance, or act. Requires the suit to be filed not later than the 60th day after the date on which the rule, permit, order, or ordinance takes effect or the act occurs.

Sec. 18. Authorizes the district to provide for or participate in the development, operation, or maintenance of recreational facilities to the full extent authorized by Section 59, Article XVI, Texas Constitution, the Water Code, or other applicable law.

Sec. 19. Authorizes narrow strips of land, or land that because of its shape, lack of access to public roads, or small area, cannot be logically used by anyone other than abutting property owners, to be sold, abandoned, released, exchanged, or transferred to abutting property owners under terms and conditions advantageous to the district. Provides that Section 49.226(a) (relating to sale or exchange of surplus land or personal property), Water Code, and Chapter 272 (Sale or Lease of Property by Municipalities, Counties, and Certain Other Local Governments), Local Government Code, do not apply to a conveyance of real property under this section.

Sec. 20. (a) Authorizes the district to cooperate and contract with any person, this state, any other state, the United States, or any district or political subdivision for certain purposes.

(b) Authorizes the district to cooperate and contract with an Indian tribe, as that term is defined in Section 450b(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), for any of the purposes listed in Subsection (a) of this section, provided that any contract entered into under this subsection complies with federal law.

(c) Provides that contracts entered into under this section are exempt from the requirements of Section 49.273 (Contract Award), Water Code.

Sec. 21. Provides that Chapter 49I (Construction, Equipment, Materials, and Machinery Contracts), Water Code, applies to the district, except when the district is purchasing goods or

services described by Section 252.022 (General Exemptions), Local Government Code.

Sec. 22. (a) Provides that the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state and has all of the power and authority necessary to fully qualify for and gain the benefits of any and all laws which are in any way helpful in carrying out the purposes for which the district was created. Provides that the provisions of all laws of which the district may lawfully avail itself are adopted by reference and are applicable to the district to the extent they do not conflict with this Act. Provides that to the extent the general laws may be inconsistent or in conflict with this Act, the provisions of this Act prevail.

(b) Requires that if a person challenges in court the validity of all or any portion of this Act and does not prevail, the court orders the person to pay the reasonable attorney's fees, expert witness fees, and other costs incurred by all opposing parties defending this Act.

SECTION 2. Sets forth provisions relating to the validation of this Act.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2001.