

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1821
By: Staples
Natural Resources
5/3/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Texas faces a difficult challenge to develop water policies that serve state and regional interests. The Texas Constitution authorizes the creation of groundwater conservation districts to plan, develop, and regulate the use of water. C.S.S.B. 1821 ratifies the creation of the Neches and Trinity Valleys Groundwater Conservation District, subject to approval at a confirmation election, to manage Anderson, Cherokee, and Henderson counties' groundwater resources.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Neches and Trinity Valleys Groundwater Conservation District and the board of directors of the Neches and Trinity Valleys Groundwater Conservation District in SECTION 5 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. CREATION. (a) Creates a groundwater conservation district, to be known as the Neches and Trinity Valleys Groundwater Conservation District, in Anderson, Cherokee, and Henderson counties 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.

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

SECTION 2. DEFINITION. Defines "district."

SECTION 3. BOUNDARIES. Sets forth the boundaries of the district.

SECTION 4. FINDING OF BENEFIT. Sets forth finding of benefit.

SECTION 5. POWERS. (a) Provides that, except as provided by this section, 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 Chapter 49, Water Code, does not apply to the district. Provides that this Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(b) 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 (Transfer of Groundwater Out of District), Water Code, and to regulate the terms on which the permit holder under those rules is authorized to conduct such a transfer. Provides that a retail public utility as defined by Section 13.002 (Definitions), Water Code, is not required to obtain a permit to transfer groundwater out of the district if certain conditions are met.

(c) Prohibits the district from levying or collecting taxes in the district.

(d) 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. Requires the fee to be based on the amount of water to be withdrawn from the well and may not exceed \$0.25 per acre foot for water used for irrigating agricultural crops or operating existing steam electric stations or \$0.0425 per thousand gallons for water used for any other purpose. Authorizes the fees to be assessed annually, based on the size of column pipe used in the wells, the production capacity of the well, or actual, authorized, or anticipated pumpage.

(e) Provides that a well meeting the criteria established under Section 36.117 (Exemptions; Exception; Limitations), Water Code, including a well used for dewatering and monitoring in the production of coal and lignite, is exempt from permit requirements, regulations, and fees imposed by the district.

(f) Prohibits the district from carrying out certain duties.

SECTION 6. BOARD OF DIRECTORS. (a) Provides that the district is governed by a board of directors appointed as provided by Section 7 of this Act.

(b) Provides that, except for the initial term, all directors appointed by the county commissioners court in each county in the district serve four-year terms. Provides that the director appointed jointly under Section 7(b) of this Act serves a two year term. Provides that the terms of four initial directors will expire at the end of the calendar year two years after the effective date of this Act and the terms of three initial directors will expire at the end of the calendar year four years after the effective date of this Act.

(c) Requires the initial directors appointed by the county commissioners court in each county, subject to Subsection (b) of this section, to draw lots to determine one initial director from each county who shall serve a two-year term. Requires the other initial directors to serve terms of four years.

(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 directors 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 7. APPOINTMENT OF DIRECTORS. (a) Requires the commissioners court of each county in the district to appoint one director to represent the rural water and utilities and small municipal water supply interests, and one director to represent the agriculture, industry, or landowner groundwater supply interests of the county.

(b) Requires the governing body of the most populous municipality in each county in the

district, acting jointly with the governing body of the most populous municipality in each other county in the district, to appoint one director representing those municipalities. Requires the governing bodies to appoint residents of the district on a rotating basis so that a resident of each county is appointed every sixth year.

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

SECTION 8. ORGANIZATIONAL MEETING. Requires that as soon as practicable after all the initial directors are appointed as provided in this Act, 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 at which time the directors will take office. Requires that if no location can be agreed upon, the organizational meeting of the directors to be at the Anderson County Courthouse.

SECTION 9. 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 establishment 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 (Uniform Election Dates), 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.

SECTION 10. ADDITION OF OTHER COUNTIES OR CERTAIN UNDERGROUND WATER DISTRICTS TO DISTRICT. (a) Requires an adjacent county or an underground water conservation district whose boundaries lie wholly within the boundaries of the Neches and Trinity Valleys Groundwater Conservation District that wish to join the district to petition the district by resolution of the commissioners court of the county or the board of directors of the underground water conservation district.

(b) Authorizes the board by resolution to approve the addition of the county or underground water conservation district to the district if the board finds after a hearing on the resolution that the addition of the county would benefit the district and the county or underground water conservation district to be added.

(c) Provides that the addition of a county or underground water conservation district to the district under this section is not final until ratified by a majority vote of the qualified voters in the county or within the boundaries of the underground water conservation district to be added voting in an election held for that purpose.

(d) Requires the ballots to be printed to permit a person to vote for or against the proposition and sets forth specific wording to be contained on the ballot.

(e) Provides that the notice of the election, the manner and the time of giving the notice, the manner of holding the election, and the qualifications of the voters are governed by the Election Code.

SECTION 11. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. Sets forth findings related to procedural requirements.

SECTION 12. EFFECTIVE DATE. Effective date: upon passage or September 1, 2001.