

BILL ANALYSIS

Senate Research Center
82R443 TJB-F

S.B. 1491
By: Uresti
Natural Resources
4/2/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1491 creates the Terrell County Groundwater Conservation District. Currently, the lack of a water conservation district hinders any efforts to protect historic users and keep a sustainable approach to maintain the aquifer. Terrell County believes this is a potential problem in groundwater management.

S.B. 1491 creates the Terrell County Groundwater Conservation District in order to establish the county's ability to manage, protect, and preserve the aquifer that is located within the geographical boundaries of Terrell County. The initial boundaries of the district would be coextensive with the boundaries of Terrell County.

An election to confirm creation of the district is required. The district's five directors shall be appointed by the Terrell County Commissioners Court to serve staggered four-year terms. The bill authorizes the district to impose certain reasonable well fees and allows the district to impose an ad valorem tax. The bill prohibits the district from exercising the power of eminent domain.

The Terrell County Commissioners Court has passed a resolution in support of the creation of the groundwater district with the authority to levy taxes and set fees.

As Proposed, S.B. 1491 relates to the creation of the Terrell County Groundwater Conservation District and provides authority to impose a tax and issue bonds.

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 Subtitle H, Title 6, Special District Local Laws Code, by adding Chapter 8837, as follows:

CHAPTER 8837. TERRELL COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8837.001. DEFINITIONS. Defines, in this chapter, "board," "commissioners court," "director," and "district."

Sec. 8837.002. NATURE OF DISTRICT. Provides that the Terrell County Groundwater Conservation district (district) is a groundwater conservation district in Terrell County created under and essential to accomplish the purposes of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

Sec. 8837.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 8837.022 before December 31, 2012:

(1) the district is dissolved December 31, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Terrell County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2016.

Sec. 8837.004. INITIAL DISTRICT TERRITORY. Provides that the initial boundaries of the district are coextensive with the boundaries of Terrell County, Texas.

Sec. 8837.005. DISTRICT NAME CHANGE. Authorizes the board of directors (board) to change the district's name when the district annexes territory.

Sec. 8837.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. (a) Provides that except as otherwise provided by this chapter, Chapter 36 (Groundwater Conservation Districts), Water Code, applies to the district.

(b) Provides that Section 36.121 (Limitation on Rulemaking Power of Districts Over Wells in Certain Counties), Water Code, does not apply to the district.

[Reserves Sections 8837.007-8837.020 for expansion.]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8837.021. APPOINTMENT OF INITIAL DIRECTORS; TERMS. (a) Requires the Terrell County Commissioners Court (commissioners court), not later than the 45th day after the effective date of the Act enacting this chapter, to appoint five initial directors in a manner that meets the representational requirements of Section 8837.051.

(b) Requires one member of the board (director) representing urban interests and two directors representing agricultural interests, except as provided by Section 8837.003, and notwithstanding Section 8837.053, to be appointed to terms that expire April 1, 2013. Requires the other two directors to be appointed to terms that expire April 1, 2015.

Sec. 8837.022. CONFIRMATION ELECTION. (a) Requires the initial directors to hold an election to confirm the creation of the district.

(b) Provides that Section 41.001(a) (relating to the date of each general or special election), Election Code, does not apply to an election held under this section.

(c) Requires a confirmation election, except as provided by this section, to be conducted as provided by Sections 36.017(b)-(i) (relating to provisions for designating precincts and polling places, giving notice, and election returns), Water Code, and the Election Code. Provides that the provision of Section 36.017(d) (relating to language on ballot), Water Code, relating to the election of directors does not apply to an election under this section.

Sec. 8837.023. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2016.

[Reserves Sections 8837.024-8837.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8837.051. COMPOSITION OF BOARD. (a) Provides that the district is governed by a board of five directors appointed by the commissioners court.

(b) Requires two directors to represent urban interests in the district and three to represent agricultural interests in the district.

Sec. 8837.052. TERMS OF DIRECTORS. (a) Provides that directors serve staggered four-year terms, with two or three directors' terms expiring April 1 of each odd-numbered year.

(b) Authorizes a director to serve consecutive terms.

(c) Requires the commissioners court to appoint a director to succeed a serving director on or before the date the serving director's term expires.

Sec. 8837.053. VACANCIES. Requires the commissioners court, if there is a vacancy on the board, to appoint a person to fill the vacancy for the remainder of the term in a manner that meets the representational requirements of Section 8837.051.

Sec. 8837.054. COMPENSATION. (a) Provides that Sections 36.060(a) (relating to office fees), (b) (relating to reimbursement), and (d) (relating to special districts), Water Code, do not apply to the district.

(b) Entitles a director to receive compensation of not more than \$50 a day for each day the director actually spends performing the duties of a director. Prohibits the compensation from exceeding \$3,000 a year.

(c) Authorizes the board to authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the board.

[Reserves Sections 8837.055-8837.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8837.101. GENERAL POWERS. Provides that, except as otherwise provided by this chapter, the district has all of the rights, powers, privileges, functions, and duties provided by the general law of this state applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8837.102. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. Prohibits the district from purchasing, selling, transporting, or distributing surface water or groundwater for any purpose.

Sec. 8837.103. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 8837.104-8837.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8837.151. LIMITATION ON TAXES. Prohibits the district from imposing ad valorem taxes at a rate that exceeds 1.5 cents on each \$100 valuation of taxable property in the district.

Sec. 8837.152. FEES. (a) Authorizes the board by rule to impose reasonable fees on each well:

(1) for which a permit is issued by the district; and

(2) that is not exempt from district regulation.

(b) Authorizes a production fee to be based on:

(1) the size of column pipe used by the well; or

(2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) Require the board to base the initial production fee on the criteria listed in Subsection (b)(2). Provides that the initial production fee:

(1) is prohibited from exceeding:

(A) 25 cents per acre-foot for water used for agricultural irrigation; or

(B) 4.25 cents per thousand gallons for water used for any other purpose; and

(2) is authorized to increase at a cumulative rate not to exceed three percent per year.

(d) Authorizes the district, in addition to the production fee authorized under this section, to assess an export fee on groundwater from a well that is produced for transport outside the district.

(e) Authorizes fees authorized by this section to be:

(1) assessed annually;

(2) used to pay the cost of district operations; and

(3) used for any other purpose allowed under Chapter 36, Water Code.

Sec. 8837.153. LIMITATION ON INDEBTEDNESS. Authorizes the district to issue bonds and notes under Subchapter F (Bonds and Notes), Chapter 36, Water Code, except that the total indebtedness created by that issuance may not exceed \$500,000 at any time.

SECTION 2. (a) Provides that the 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 under Section 59, Article XVI, Texas Constitution, and Chapter 313 (Notice for Local and Special Laws), Government Code.

(b) Provides that the governor has submitted the notice and Act to the Texas Commission on Environmental Quality (TCEQ).

(c) Provides that TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 3. Effective date: September 1, 2011.