

BILL ANALYSIS

Senate Research Center
83R8197 AED-F

S.B. 1870
By: Hegar
Natural Resources
4/5/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1870 proposes to create the West Fort Bend Water Authority (authority) which will mostly encompass Regulatory Area B, as designated by the Fort Bend Subsidence District, which consists mostly of unincorporated Fort Bend County.

The authority will be instrumental in assisting western and southern Fort Bend County to plan for, finance, and obtain long-term water supplies and enable the adoption and implementation of a groundwater reduction plan. Fort Bend Subsidence District is regularly evaluating whether conversion from groundwater sources will be necessary in Regulatory Area B.

Because surface water projects are extremely expensive (all the cheap water is gone) and are difficult, if not impossible, for small municipalities and unincorporated areas to finance and construct, regional cooperation through the authority will reduce water project costs through economies of scale and will provide a vehicle for the financing of such projects. Surface water projects have an extremely long lead time and planning efforts must begin now in order for water to be available 10, 20, or even 30 years from now.

There will be a five-member board, appointed by the commissioners court and serving staggered four-year terms. When a precinct reaches a population of 25,000, the director will be appointed by local governments within the precinct. A municipality, district, or large landowner may exclude itself from the authority by filing a petition. There is no taxing authority, but the authority may establish fees (including export fees) necessary to fulfill the authority's purpose. The board may issue revenue bonds or notes.

As proposed, S.B. 1870 amends current law relating to the creation of the West Fort Bend Water Authority; provides authority to issue bonds; grants the power of eminent domain; and provides an administrative penalty.

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 8878, as follows:

CHAPTER 8878. WEST FORT BEND WATER AUTHORITY

Sets forth standard language for the creation of the West Fort Bend Water Authority (authority) in Fort Bend County (county). Sets forth standards, procedures, requirements, and criteria for:

Definitions, creation, and approval of the authority, including municipal annexation of the authority and its effect on the power of a municipality (Sections 8878.001-8878.050);

Size, composition, appointment, and terms of the board of directors of the authority (Sections 8878.051-8878.100);

Powers and duties of the district (Sections 8878.101-8878.150);

General financial provisions and authority to impose a tax and to issue bonds and obligations for the district (Sections 8878.151);

Power of Eminent Domain: Authorizes the authority to acquire by condemnation any land, easements, or other property inside the authority's boundaries to further authorized purposes, powers, or duties of the authority. Authorizes the authority to acquire by condemnation any land, easements, or other property outside the authority's boundaries for the purposes of pumping, storing, treating, or transporting water. Authorizes the authority, when exercising the power of eminent domain granted by this section, to elect to condemn either the fee simple title or a lesser property interest. Authorizes the authority to exercise the power of eminent domain in the manner provided by Chapter 21 (Eminent Domain), Property Code. Provides that the authority is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party. Provides that the authority is not required to deposit more than the amount of an award in a suit. Prohibits the authority from using the power of eminent domain for the condemnation of land for the purpose of acquiring rights to groundwater or for the purpose of acquiring water or water rights (Section 8878.119).

SECTION 2. Sets forth the initial boundaries of the district.

SECTION 3. Sets forth the boundaries of the five single-member district precincts.

SECTION 4. Provides that all requirements of the constitution and the 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 5. (a) Provides that Section 8878.119, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) Provides that if this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8878, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8878.119, as follows:

Sec. 8878.119. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

(c) Provides that this section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c) (relating to authorizing the legislature to enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house), Article I (Bill of Rights), Texas Constitution.

SECTION 6. Effective date, except as provided by Section 5 of this Act: upon passage or September 1, 2013.