

## **BILL ANALYSIS**

Senate Research Center  
87R2111 SLB-F

H.B. 1606  
By: Talarico (Schwertner)  
Water, Agriculture & Rural Affairs  
5/10/2021  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Upper Brushy Creek Water Control and Improvement District (district) is responsible for the operation and maintenance of 23 flood control structures within its jurisdiction. The structures were built originally as low-hazard dams in rural areas, but are now in rapidly developing areas with a high-hazard risk classification.

The district established a dam safety program in 2000 in response to changes in federal and state law that would modernize all of the district's dams including the dam at issue, Dam #8. In 2018, the City of Austin (city) demanded that the district submit a Site Development Plan Application to the city regarding the update of Dam #8, which is located in the city's extraterritorial jurisdiction (ETJ).

The city's development regulations cannot unreasonably interfere with dam modernization projects. However, upon clarification from the Texas Commission on Environmental Quality (TCEQ) and the Office of the Attorney General, it became clear that a statutory change is necessary to alleviate the administrative burdens the city has placed on the district.

Dam modernization and regulation has adequate oversight from TCEQ, the Army Corps of Engineers, the Federal Emergency Management Agency (FEMA), and others. Accordingly, the city's demands that the district submit time consuming and costly applications before modernizing a dam is an unreasonable interference with the project. This puts the safety of the dam and those who live around it at risk.

H.B. 1606 amends current law relating to the construction, maintenance, rehabilitation, and removal of dams by the Upper Brushy Creek Water Control and Improvement 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 Section 1, Chapter 341, Acts of the 55th Legislature, Regular Session, 1957, to delete existing text providing that the Brushy Creek Water Control and Improvement District No. 1 of Williamson and Milam Counties is hereinafter referred to as "District."

SECTION 2. Amends Chapter 341, Acts of the 55th Legislature, Regular Session, 1957, by adding Sections 1A and 8A, as follows:

Sec. 1A. Defines "district" to mean the Upper Brushy Creek Water Control and Improvement District and the Lower Brushy Creek Water Control and Improvement District.

Sec. 8A. Provides that the Upper Brushy Creek Water Control and Improvement District is not required to comply with municipal regulations regarding the construction, maintenance, rehabilitation, or removal of dams.

SECTION 3. Effective date: upon passage or September 1, 2021.