

## **BILL ANALYSIS**

H.B. 1065  
By: Cook, Robby  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Section 36.051, Texas Water Code, specifically prohibits a director of a groundwater conservation district from serving on the governing body of another political subdivision. However, in order to assist smaller districts in finding qualified board members, language was included in the section stating that the prohibition does not apply to districts with a population less than 50,000. Based on this exception, many small districts have board members who also serve on the governing body of other political subdivisions such as counties, municipalities, and school districts.

Despite this, a number of recent Texas Attorney General's opinions have reviewed this situation in light of the common law doctrine of incompatibility and have determined that directors of smaller districts may not serve on other political subdivisions if it violates the doctrine of incompatibility. The attorney general normally interprets the doctrine of incompatibility very broadly and, in recent opinions, has determined that service as a county commissioner or a school district board member is incompatible with service as a groundwater district board member.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Amend Section 36.051, Texas Water Code, to clearly state that the common law doctrine of incompatibility does not apply to districts with a population of less than 50,000.

### **EFFECTIVE DATE**

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.