

BILL ANALYSIS

C.S.H.B. 1540
By: Callegari
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, over 280,000 people receive groundwater from sources within the West Harris County Regional Water Authority (authority). The authority was created by the legislature during the 77th Legislative Session for the purposes, among others, of supplying surface water to certain areas within its boundaries, controlling subsidence, and facilitating compliance with Harris-Galveston Coastal Subsidence District groundwater reduction requirements. Amendments to the authority's enabling statute facilitate more efficient operation of the authority. C.S.H.B. 1540 affects certain general powers and authority of the authority.

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

SECTION 1. C.S.H.B. 1540 corrects a typographical error in that the word "include" was inserted twice in a sentence describing certain territory of the authority.

SECTION 2. C.S.H.B. 1540 excludes seven tracts from the boundaries of the authority.

SECTION 3. C.S.H.B. 1540 amends Section 1.06(c) of Chapter 414, Acts of the 77th Legislature, Regular Session, 2001 (Act), to remove the requirement that the authority's system be sufficient to supply surface water and groundwater to territory annexed as a result of a petition for annexation from a water district or municipality. The bill adds Section 1.06(f) to the Act to provide that a municipality within the authority whose territory includes only that annexed for a limited purpose does not have the right to: receive notices under Section 4.03(c) of the Act; participate in the appointment of directors under Article 2 of the Act; or participate in the capital cost funding procedures provided by the authority under Section 4.04 of the Act.

SECTION 4. C.S.H.B. 1540 amends Section 2.01(e) of the Act to provide that in order to be eligible to serve as a director of the authority or to be listed on a ballot for a director precinct that includes any portion of the territory of the City of Katy, the individual must, in addition to the other requirements for director eligibility under the Act, either (a) have served for any length of time as the mayor or member of City Council of the City of Katy, or (b) have served for a total of no less than four years as a director of one or more districts.

SECTION 5. C.S.H.B. 1540 amends Section 2.02(c) of the Act to provide that the calculation of the voting entitlement of a water district or municipality is based on the amount of water used by such district or municipality within the director precinct. In addition, SECTION 5 amends Section 2.02(c) of the Act to provide that the authority shall exclude water pumped from or used in Fort Bend County from the calculation of the voting entitlement if the authority did not charge a fee under Section 4.03(b) of the Act on wells in Fort Bend County during the prior calendar year.

C.S.H.B. 1540 amends Section 2.02(e) of the Act to provide that water districts and municipalities may, but are not required to, nominate candidates of director positions of the authority, and allows the authority to cancel the director appointment process for a director position that is uncontested.

SECTION 6. C.S.H.B. 1540 amends Section 4.03(a) of the Act to provide that if the authority imposes an impact fee, as defined in Section 395.001, Local Government Code, the authority shall comply with Chapter 395, Local Government Code, but a fee or charge based on a portion of the authority's costs and expenses incurred prior to January 1, 2003, charged to a person who did not pay fees to the authority prior to January 1, 2003, is not considered an impact fee.

C.S.H.B. 1540 amends Section 4.03(c) of the Act to provide that failure to comply with the requirement in Section 4.03(c) of the Act that reasonable efforts be made to send water districts and municipalities written notice of the date, time and location of the meeting at which the board intends to adopt a proposed charge under Section 4.03(b) of the Act and the amount of such charge does not invalidate a charge adopted by the board under Section 4.03(b) of the Act.

C.S.H.B. 1540 amends Section 4.03(d) of the Act to provide that wells located within Fort Bend County or Harris County that are not subject to any groundwater reduction requirement of the Fort Bend Subsidence District or the Harris-Galveston Coastal Subsidence District shall be exempted from the charge under Section 4.03(b) of the Act. In addition, SECTION 6 amends Section 4.03(d) of the Act to provide under what circumstances a well is subject to a groundwater reduction requirement.

C.S.H.B. 1540 inserts Section 4.03(g) in the Act to provide that the authority may impose fees, user fees, or charges for the importation of water into the authority's boundaries from a source located outside the authority's boundaries other than a source in Waller County that serves a municipality within the authority.

SECTION 7. C.S.H.B. 1540 amends Section 4.04 of the Act to clarify: (1) that the authority may determine the manner and procedure, including a credit procedure, by which water districts and municipalities within the authority have the opportunity to fund their share of the capital costs of the authority; (2) that the authority may calculate such capital cost shares based on the amount of water used by water districts and municipalities; and (3) Fort Bend County water usage may be excluded from such calculation if the authority did not charge a fee under Section 4.03(b) of the Act on wells in Fort Bend County during the prior calendar year. Also, SECTION 7 amends Section 4.04 of the Act to provide that Section 4.04 of the Act, or any failure to comply therewith, does not limit or impede the authority's ability to issue bonds or notes and the authority may adopt procedures by which a district or municipality may receive a credit from the authority or necessary to accomplish the goals of this section.

SECTION 8. C.S.H.B. 1540 amends Section 4.06 of the Act to provide that the board may exclude a person, or territory or well owned or controlled by a person, from the authority's groundwater reduction plan for failure to make a complete or timely payment to the authority.

SECTION 9. C.S.H.B. 1540 amends Section 5.01(i) of the Act to provide that Sections 49.153 and 49.154, Water Code, (pertaining to revenue notes, bond anticipation notes and tax anticipation notes for water districts) do not apply to bonds or notes issued by the authority and that Texas Commission on Environmental Quality rules regarding bonds or notes do not apply to bonds or notes issued by the authority.

SECTION 10. Provides that the exclusion of territory in SECTION 2 of the Act does not impair any obligation related to bonds or notes issued by the authority before the effective date of this Act and that an owner of land within the excluded area on which taxes have been pledged for authority bonds remains liable for the owner's pro rata share of that bond debt and will continue to pay taxes on that land until the owner's pro rata share is paid.

SECTION 11. Effective date clause.

EFFECTIVE DATE

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

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1540 provides different coordinates for the tracts to be excluded from the authority as listed in SECTION 2 of the bill.

C.S.H.B. 1540 also makes clarifying changes in SECTION 3 by adding the words “some or all of the” before territory located within the district and specifying subsection (f) applies to land that has been annexed or will be annexed. The bill makes an additional clarifying change in SECTION 6 by specifying that subsection (g) applies to a municipality “within the authority.”

In SECTION 7 of C.S.H.B. 1540 the substitute adds the words “or invalidate any fees, user fees, charges, rates, or special assessments imposed by the authority” to Sec. 4.04 of the Act.

C.S.H.B. 1540 also specifies in SECTION 10 that the change in law made by this Act applies to “any fees, assessments, or other charges owed to the West Harris County Regional Water Authority” by an owner or property excluded from the authority by this Act and these fees remain the obligation of the owner.