

BILL ANALYSIS

C.S.H.B. 3625
By: Ellis
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 77th Texas Legislature created the Lone Star Groundwater Conservation District (district) to manage and conserve the groundwater resources located within Montgomery County. The voters of Montgomery County confirmed the creation of the district in an election held on November 6, 2001. In the two years since its creation, the district has identified changes within its enabling legislation that would further enhance the ability of the district to manage its resources and meet its goals. As proposed, C.S.H.B. 3625 clarifies the fees of office for directors of the district and validates certain actions taken by the district. In addition, C.S.H.B. 3625 sets forth clarifying powers for the district such as authorizing the district to institute a claims process to carry out its existing authority under Chapter 36, Water Code, to identify and protect existing and historic users. C.S.H.B. 3625 would also authorize the district to adopt production and spacing regulations for different hydrogeologic areas of the district and establish management zones to further the purposes of the district.

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. Amends Chapter 1321, Acts of the 77th Legislature, Regular Session, 2001, by adding Sections 5A and 5B to provide as follows:

Sec. 5A. (a) Allows the district to adopt different rules under Section 36.116, Water Code, for: (1) each aquifer, subdivision of an aquifer, or geologic stratum located in whole or in part within the boundaries of the district; or (2) different geographic areas of an aquifer or subdivision of an aquifer under certain circumstances.

(b) Allows the district to: (1) establish zones within the boundaries of the district for the purposes of groundwater management and regulation; and (2) implement regulations for each zone as provided by Section (a).

(c) Allows the district to place more restrictions on the production of groundwater by a person applying for a nonhistoric operating permit than the district places on the production of groundwater by a person under a historic use permit.

(d) Allows the district to establish metering requirements for nonexempt wells and initiate and enforce a water use fee structure based on the total amount of groundwater authorized to be produced annually under a permit.

Sec. 5B. (a) Allows the district to protect existing or historic use of groundwater by implementing a claims process in which the district may require an existing or historic user to obtain a historic use permit.

(b) To obtain a historic use permit, requires an existing or historic user to prove the maximum annual amount of groundwater that the user applied to a beneficial use during a period established by the district as the existing and historic use period. If an existing or historic user began using groundwater in the final year of the existing and historic use period, the district may issue a historic use permit to that user based on an extrapolation of the amount of groundwater that the user would have applied to the same beneficial use in a full calendar year.

(c) Allows the district to establish as an existing and historic use period a period that is not less than 5 years nor more than 21 years in length and that ends on or before the date the district publishes notice or adopts rules protecting existing or historic use.

(d) Allows the district to define the initial existing and historic use period as the period from January 1, 1992, to the date of first adoption of the district's rules, August 26, 2002.

SECTION 2. Amends Section 6, Chapter 1321, Acts of the 77th Legislature, Regular Session, 2001, by amending Subsection (g) and adding Subsection (i) as follows:

(g) Provides that a director may receive a fee of office under Section 36.060, Water Code, only if a director does not hold another civil office of emolument for purposes of Section 40, Article XVI, Texas Constitution. Clarifies that this subsection prevails over any provision of general or special law to the contrary.

(i) Provides that, notwithstanding subsection (g), a director, may receive reimbursement of actual expenses as provided by Section 36.060(b), Water Code.

SECTION 3. Amends Section 7, Chapter 1321, Acts of the 77th Legislature, Regular Session, 2001, by amending Subsections (b), (c), and (d) as follows:

(b) Provides that a director shall be appointed not later than January 31 of the year in which the current director's term expires in order to begin the new term of office on February 1. Sets forth that, not later than the 75th day before that date, the general manager of the district shall mail to each person who is designated in Subsection (a) of Section 7 to make appointments in that particular year written notice that the appointments are due.

(c) Clarifies that appointing entities shall make their appointments to the district not later than January 15 of the year in which the current director's term expires.

(d) Clarifies that written submission of votes for directors shall be to the district.

SECTION 4. Provides that Section 36.121, Water Code, does not apply to the district.

SECTION 5. (a) Provides that any act proceeding taken by or on behalf of the Lone Star Groundwater District before the effective date of this Act is validated in all respects as if the act or proceeding had occurred as authorized by law.

(b) Sets forth that a governmental act or proceeding of the Lone Star Groundwater Conservation District occurring after an act or proceeding validated by this Act may not be held invalid on the ground that the prior act or proceeding, in the absence of this Act, was invalid.

(c) Provides that specific acts of the Lone Star Groundwater Conservation District are validated as of the dates they occurred.

(d) Clarifies that this section does not apply to any matter that on the effective date of this Act is involved in litigation under certain circumstances or has been held invalid by a final judgment of a court of competent jurisdiction.

SECTION 6. EFFECTIVE DATE. Effective date: upon passage or September 1, 2003.

EFFECTIVE DATE

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

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute inserts the words "for non-exempt wells" in SECTION 1 between the word "requirements" and the semicolon. The substitute also adds the following new sentence in SECTION 1: "If an existing or historic user began using groundwater in the final year of the existing and historic use period, the district may issue a historic use permit to that user based on an extrapolation of the amount of groundwater that the user would have applied to the same beneficial use in a full calendar year."