

## **BILL ANALYSIS**

S.B. 1035  
By: Lindsay  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, over 280,000 people receive groundwater from sources within the West Harris County Regional Authority, which was created by the 77th Legislature. The authority was created to supply surface water to certain areas within its boundaries, control subsidence, and facilitate compliance with Harris-Galveston Coastal Subsidence District groundwater reduction requirements. S.B. 1035 amends the authority's enabling statute to facilitate its operation.

### **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 Section 1.03(b), Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, to make a nonsubstantive change.

SECTION 2. Amends Section 1.05, Chapter 414, Act of the 77th Legislature, Regular Session, 2001, by adding Subsection (e), to set forth certain territory to be excluded from the West Harris County Regional Water Authority (authority).

SECTION 3. Amends Section 1.06, Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, by amending Subsection (c) and adding Subsection (f), as follows:

(c) Authorizes the authority to annex some or all of the territory located within a district or municipality if the district or municipality files with the authority a petition requesting the annexation signed by a majority of the governing body of the district or municipality, in addition to the authority granted by Subsection (b) of this section, regardless of whether the territory is contiguous to the authority. Deletes text requiring that the authority's system and other improvements be sufficient to supply surface water and groundwater to the added territory.

(f) Provides that a municipality that has annexed or annexes territory of the authority for limited purposes under Chapter 43F (Limited Purpose Annexation), Local Government Code, does not have certain rights, regarding the annexed territory.

SECTION 4. Amends Section 2.01(e), Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, to amend the qualifications required of a candidate for director of the authority representing any part of the City of Katy.

SECTION 5. Amends Sections 2.02(c) and (e), Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(c) Provides that the number of votes for a governing body of a district or municipality

within the precinct is equal to the number computed by dividing the total number of units of water, as determined by the authority board (board), used within the precinct by the district or municipality during the calendar year preceding the year in which the selection of the director is done by the total number of units of water used within the precinct by all districts and municipalities in the precinct, multiplying that quotient by 100, and rounding that result to the tenth. Requires the board to exclude water pumped from or used in Fort Bend County from the calculation of the numbers of votes in this subsection if the authority did not charge a fee under Section 4.03(b) on wells in Fort Bend County during the calendar year preceding the year in which the selection of the director is made.

(e) Authorizes, rather than requires, the governing body of each district or municipality in the authority by resolution to nominate one candidate for the position of director for the director precinct in which the district or municipality is located. Authorizes the board to declare the unopposed candidate elected and to cancel the director appointment procedures generally required by this section for that position, if by February 15 of each even-numbered year only one candidate's name is submitted for the position of the director for a director precinct. Requires the board, if more than one candidate's name is submitted for the position of director for a precinct, before March 15 of each evennumbered year, to prepare for each director precinct, a ballot listing all the candidates for the director precinct and to provide a copy of the ballot to the presiding officer of the governor body of each district or municipality located within that director precinct.

SECTION 6. Amends Section 4.03, Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, by amending Subsections (a), (c), and (d) and adding Subsection (g), as follows:

(a) Requires the authority to comply with Chapter 395 (Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments), Local Government Code, if the authority imposes a fee that is an impact fee, as defined by Section 395.001, Local Government. Provides that for the purpose of this Act, an impact fee does not include a fee or charge that the authority imposes that is based on a portion of the costs and expenses incurred by the authority before January 1, 2003, and that is charged to a person who did not pay any fees to the authority before January 1, 2003.

(c) Provides that the board's failure to comply with this subsection does not invalidate a charge adopted by the board under Subsection (b).

(d) Requires the board to exempt the wells located in Harris County or Fort Bend County from the charge under Subsection (b) the classes of wells that are not subject to any groundwater reduction requirement imposed by the Harris-Galveston Coastal Subsidence District or the Fort Bend Subsidence District, as appropriate, rather than subsidence district. Authorizes the authority, if any of those classes of wells become subject to a groundwater reduction requirement imposed by the Harris-Galveston Coastal Subsidence District or the Fort Bend Subsidence District, as appropriate, to impose the charge under Subsection (b) on those wells, rather than classes. Provides that for the purposes of this subsection, a well is subject to a groundwater reduction requirement if the Harris-Galveston Coastal Subsidence District or Fort Bend Subsidence District, as appropriate, has adopted or adopts a requirement or regulation that the well reduce groundwater withdrawals or that the well join with other wells to collectively reduce groundwater withdrawals, including a groundwater reduction that is not required until a future date.

(g) Authorizes the authority to 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 located in Waller County that serves a municipality within the authority.

SECTION 7. Amends Section 4.04, Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 4.04. PURCHASE OF WATER FROM ANOTHER ENTITY. Requires the authority to provide each district or municipality within its boundaries information regarding the share of the capital cost to be paid by the district or municipality, as determined by the authority and to provide each district or municipality the opportunity, in a manner and by a procedure determined by the authority to fund its share of the capital costs with proceeds from the sale of bonds or fees and charges collected by the districts or municipalities. Authorizes the authority, in complying with this section, to use any reasonable basis to calculate from time to time the share of the capital costs of a district or municipality. Authorizes the authority to calculate the shares of the capital costs based on the amount of water used within the authority by the district or municipality during the calendar year preceding the year in which the calculation is made, and authorizes the authority to exclude from the calculation the amount of water used within Fort Bend County if the authority did not charge a fee under Section 4.03(b) of this Act on wells within Fort Bend County during that calendar year. Authorizes the board to adopt a procedure by which a district or municipality may receive a credit from the authority. Authorizes the board to adopt any other procedure necessary to accomplish the goals of this section. Provides that this section or any failure to comply with this section does not limit or impede the authority's ability to issue bonds or notes or invalidate any fees, user fees, charges, rates, or special assessments imposed by the authority.

SECTION 8. Amends Section 4.06, Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 4.06. INTEREST AND PENALTIES. Authorizes the board to exclude a person, or any 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. Makes a nonsubstantive change.

SECTION 9. Amends Section 5.01(i), Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(i) Provides that Sections 49.153, 49.154, and 49.181, Water Code, do not apply to bonds or notes issued by the authority. Provides that Texas Commission on Environmental Quality (TCEQ) rules regarding bonds or notes do not apply to bonds or notes issued by the authority. Makes a nonsubstantive change.

SECTION 10. Provides that the change in law made to Section 1.05, Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, by this Act, does not impair any obligation related to bonds or notes issued by the West Harris County Regional Water Authority before the effective date of this Act. Provides that all outstanding bonds and notes validly issued by the authority remain valid, enforceable, and binding and shall be paid in full, both principal and interest, in accordance with their terms and from the sources pledged to the payment of the bonds or notes. Provides that an owner of land within the area excluded from the authority by this Act the taxes on which have been pledged for bonds issued by the authority remains liable for the owner's pro rata share of that bond debt and shall continue to pay taxes on that land until the owner's pro rata share is paid.

SECTION 11. 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 September 1, 2003.