

BILL ANALYSIS

Senate Research Center
78R14098 QS-F

C.S.S.B. 1930
By: Staples
Natural Resources
5/2/2003
Committee Report (Substituted)

DIGEST 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. C.S.S.B. 1930 clarifies the fees of office for directors of the district and validates certain actions taken by the district; sets forth clarifying powers for the district; and authorizes 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

This bill expressly grants rulemaking authority to the Lone Star Groundwater Conservation District (district) in SECTION 1 (Section 5A, Chapter 1321, Acts of the 77th Legislature, Regular Session, 2001) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1321, Acts of the 77th Legislature, Regular Session, 2001, by adding Sections 5A and 5B, as follows:

Sec. 5A. ADDITIONAL POWERS. (a) Authorizes the Lone Star Groundwater Conservation District (district) to adopt different rules under Section 36.116, Water Code, for certain aquifer characteristics.

(b) Authorizes the district to establish zones within the boundaries of the district for the purposes of groundwater management and regulation and implement regulations for each zone as provided by Subsection (a).

(c) Authorizes 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) Authorizes 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. HISTORIC USE PERMITS. (a) Authorizes 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) Requires an existing or historic user, to obtain a historic use permit, 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. Authorizes the district, if an existing or historic user began using groundwater in the final year of the existing and historic use period, to 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 full calendar year.

(c) Authorizes the district to establish a certain period as an existing and historic use period.

(d) Authorizes 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) Prohibits a position on the board of the district from being construed to be a civil office of emolument for any purpose, including a purpose described by Section 40, Article XVI, Texas Constitution, except as provided by this subsection. Authorizes a director to receive a fee of office under Section 36.060, Water Code, only if the director does not hold another office that is a civil office of emolument for purposes of Section 40, Article XVI, Texas Constitution. Provides that this subsection prevails over any provision of general or special law to the contrary, including Section 36.060(d), Water Code.

(i) Authorizes a director, notwithstanding Subsection (g), to receive reimbursement of actual expenses as provided by Section 36.060(b), Water Code.

SECTION 3. Amends Sections 7(b)-(d), Chapter 1321, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(b) Requires a director, rather than directors, except as provided by Section 8 of this Act, to 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, rather than the second Monday in January of odd-numbered years. Requires the general manager of the district, not later than the 75th, rather than the 60th, day before that date, to mail to each person who is designated in Subsection (a) of this section to make appointments in that particular year written notice that the appointments are due.

(c) Requires the persons designated in Subsections (a)(1)-(4) and (6) of this section to make their appointments and submit in writing the names of their appointments to the district not later than January 15 of the year in which the current director's term expires, rather than the Commissioners Court of Montgomery County.

(d) Makes a conforming change.

SECTION 4. Amends Chapter 1321 (Limitation on Rulemaking Power of Districts Over Wells in Certain Counties), Acts of the 77th Legislature, Regular Session, 2001, by adding Section 13A, as follows:

Sec. 13A. NONAPPLICABILITY. Provides that Section 36.121, Water Code, does not apply to the district.

SECTION 5. (a) Provides that any act or proceeding taken by or on behalf of the 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) Prohibits a governmental act or proceeding of the district occurring after an act or proceeding validated by this Act from being held invalid on the ground that the prior act or proceeding, in the absence of this Act, was invalid.

(c) Provides that specifically, certain acts of the district are validated as of the dates they occurred.

(d) Provides that this section does not apply to certain matters.

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