

BILL ANALYSIS

S.B. 1941
By: Averitt
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Lake Alan Henry (lake), located in Garza and Kent Counties near the community of Justiceburg, came into existence as the result of a comprehensive study of the City of Lubbock's (city) future water requirements and potential sources of supply authorized in 1968. Feasibility and engineering studies for several possible sources continued throughout the late 70s and early 80s, and, in 1984, the Texas Water Commission (TWC) granted Lubbock's permit for reservoir construction and the appropriation of 35,000 acre feet of water per year at the Lake Alan Henry Site. The lake includes almost 2,900 surface acres, and the city has set aside approximately 580 acres around the lake for parks and public access into the Sam Wahl Recreation Area. Easy public access assures that the lake continues to be used for water-based recreation which, in addition to municipal use, is one of the permitted uses for the reservoir.

The city has tentatively determined that the water from the lake will not be needed by the city for the next twenty years to thirty years. Infrastructure, including pipeline and pump stations, to carry the water from this reservoir to the city is expected to cost approximately \$150,000,000.00. The total project has been expensive for the city and its water ratepayers, and the city desires to leverage its assets and market water from the reservoir until such time as the water is needed for the city's use. Developers around the lake have indicated an interest in purchasing water from the project, and other cities, including the City of San Angelo, that may be in need of additional water.

The proposed legislation will create a water district to be known as the Lake Alan Henry Water District (district) in Kent and Garza Counties. Water may be sold by the city under separate water contracts to the district or to any other governmental entity, in accordance with the city's permitted uses. The proposed legislation has been the subject of much discussion between the city and Garza County and Kent County. All parties support the proposed legislation. The legislation will allow an efficient use of the water in the lake for the development and will assist the city with the costs associated with the construction, operation and maintenance of the project.

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

ARTICLE 1. Creates the Lake Alan Henry Water District as a conservation and reclamation district, and finds that the district is necessary to promote, develop, encourage and maintain public welfare in the area included in the district. The boundaries of the district are set forth in this Section and include portions of Garza County and Kent County. The legislation gives the district the powers and duties relating to conservation and reclamation districts created under Sections 52 and 52a, Article III of the Texas Constitution, and Section 59, Article XVI of the Texas Constitution, including Chapter 49 of the Water Code, Chapter 51 of the Water Code, and Chapter 54 of the Water Code. The district has the power of eminent domain for the purpose of acquiring land and property in order to develop its improvements projects. The city is authorized under the legislation to exercise police powers on the lake and any property and easements around the lake owned by the city, and to assess reasonable fees for recreational use of

the lake. The legislation authorizes the city to sell water from the lake to the district or any other governmental entity after the city finds that the water supply of the lake is not needed by the city for at least 20 years and that the execution of a water sales contract will assist in fulfilling the city's financial obligations.

The legislation establishes that a board of five (5) directors will govern the district, three (3) appointed by the Commissioners Court of Garza County, and two (2) appointed by the Commissioners Court of Kent County. The legislation sets forth and requires that the initial board of directors shall call and hold an election to confirm the establishment of the district, in accordance with Chapter 49 of the Water Code.

Under the legislation, the district may levy and collect taxes for operation and maintenance purposes upon voter approval. The district may also levy a tax for bonds and other obligations payable from ad valorem taxes, and the district is tasked with annual assessment and collection of such ad valorem taxes. Bonds and other obligations secured and payable from ad valorem taxes may be assessed only after voter approval.

Under the legislation, the legislature finds that proper and legal notice of the intention to introduce the Act was had; that the public interest requires that the district adhere to the terms of, and pay the rates and charges provided in a water supply agreement; and that rates and charges set forth in accordance with the legislation will result in rates that are fair, reasonable, and non-discriminatory.

ARTICLE 2. Amends Section 231.132(a) of the Local Government Code and grants Garza and Kent Counties zoning authority within three (3) miles of the high-water mark of Lake Alan Henry.

ARTICLE 3. Effective Date.

EFFECTIVE DATE

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