

BILL ANALYSIS

C.S.H.B. 1670
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Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

SB 1, 75th Legislative Session, set up a system that required the Texas Water Development Board (TWDB), to adopt, rather than prepare, develop, and formulate, a comprehensive state water plan that incorporated the regional water plans. It set forth procedures for the development of regional water plans and established provisions for submission, adoption and approval of regional water plans at TWDB.

SB 1 also delineated that local plans be submitted to the appropriate regional water planning group. It requires a regional water planning group to consider any plans submitted under this section when preparing the regional water plan. SB 1 also required a district to develop a comprehensive management plan ("management plan") that addresses certain goals that is to be approved by TWDB.

A district is required to submit a management plan to executive administrator of the TWDB for review and certification. Certain elements are requires to be included in the management plan.

SB 1 set forth procedures for review and certification of the management plan by the executive administrator, and appeals to TWDB.

TWDB has interpreted their role in certifying management plans as a checklist approach to the requirements of Section 36.1071 (e), Water Code. If a district completes items (e) 1-4 then the management plan is approved, if they do not meet these requirements, the management plan is rejected. Item (4), water supply needs not in conflict with the regional water plan, was never intended to be the deciding factor in management plan certification. The language Section 16.053 (p) clearly set up a procedure for conflict resolution, yet TWDB has chosen not to resolve these conflicts.

CSHB 1670 removes the conflict language from the checklist of items that TWDB must consider in certification of a management plan but retains similar language as a requirement for development of a management plan. The new language mirrors the requirement under 16.054(d) that ~~the regional water planning group shall consider~~ the district's management plans when developing the regional plans.

CSHB 1670 also makes the decision by TWDB to not certify a plan appealable to district court.

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. CSHB 1670 amends Section 16.053(p), Water Code, and adds (p-1), (p-2), (p-3) and (p-4) to adding language that in the case of a conflict, the board is required to ~~provide technical assistance~~ in addition to facilitating coordination between the district and the region involved in the conflict.

Section 2. CSHB 1670 amends Section 36.1071 (e) and (h) , Water Code and adding (i). Clarification is added as to what data is required in a management plan, including defining drainable storage, volume for each aquifer, volume of flow between aquifers, volume of groundwater based on management philosophy and demand according to state water plan. It adds language in a new subsection (i) to require **A**in developing its management plan, the district shall consider the water supply needs and water management strategies outlined in the appropriate approved regional water plan for the region in which the district is located. @

Section 3. CSHB 1670 amends Section 36.1072 (b) by deleting the waiver provision if a conflict is unresolved. It also adds language in 36.1072 (f) to make a decision not to certify a management plan appealable to district court and delays enforcement action by the board until after a judgement in district court. Finally, subsection (g) is amended to add language that in the case of a conflict, the board is required to **A**provide technical assistance@in addition to facilitating coordination between the district and the region involved in the conflict. It also deletes the language requiring the board to resolve further conflict with a certified management plan.

Section 4. CSHB 1670 makes the changes only applicable to management plans adopted on or after the effective date of this act.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The Substitute divided Subsection (p) in the original bill into (p-1) (p-2) (p-3) and (p-4).

Language is added to allow the use of alternative dispute resolution system in addition to the Center for Public Policy Dispute Resolution

Adds a time period of 45 days for TWDB staff to provide technical assistance and help facilitate conflicts.

Adds the language to make alternative dispute resolution the next step in conflict resolution.

Adds the previous deleted language allowing the board to act to resolve conflict. Additionally adds a time frame for board action.

Allows decision of the board to be appealed to the district court and adds language stating the appeal would be a trial de novo.

Adds the previously deleted language allowing the board to act to suspend approval of regional water plans or certification of the management plan in order to have conflict resolved.

Clarification is added as to what data is required in a management plan, including defining drainable storage, volume for each aquifer, volume of flow between aquifers, volume of groundwater based on management philosophy and demand according to state water plan.

Clarifies that the district, in developing its management plan shall consider water supply needs and water management strategies outlined in the regional water plan for the region in which the district is located.

The substitute adds language that enforcement action cannot be taken against a district while a district is working towards certification through the process set up in the bill.

Adds the same sequence of events as added in Chapter 16 to Chapter 36. Also, adds previously deleted language regarding board resolution of the conflict.