

BILL ANALYSIS

C.S.H.B. 1680
By: Callegari
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Harris-Galveston Coastal Subsidence District was created by the legislature in 1975 for the purpose of preventing land surface subsidence in the Houston region. The Fort Bend Subsidence District was created in 1989 to address subsidence problems in Fort Bend County. The enabling acts of the two subsidence districts are very specific and set forth detailed provisions governing the powers and duties of the two districts, and additional general law provisions are incorporated by reference to Chapter 36 of the Water Code. In the past several years, a number of changes have been made to Chapter 36 that have created inconsistencies, duplication, and uncertainty with regard to the ability of the subsidence districts to properly respond to the subsidence problems in Harris, Galveston, and Fort Bend counties. In addition, the enabling acts of both districts are in need of minor updates, corrections, and clarifications.

C.S.H.B. 1680 would amend the enabling acts of the Harris-Galveston Coastal Subsidence District and the Fort Bend Subsidence District to create a single source of statutory authority for each district by removing references to Chapter 36, Water Code, and incorporating necessary provisions from general law. The bill would also update and revise the enabling acts of the two subsidence districts to clarify and correct certain provisions, such as deleting unnecessary boundary revision language, correcting minor changes made during codification, deleting unnecessary startup and temporary regulation provisions, clarifying certain notice provisions, and simplifying permit fee provisions.

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

C.S.H.B. 1680 amends Chapter 8801, Special Districts Code, which is the enabling act of the Harris-Galveston Coastal Subsidence District. Amendments to Sections 8801.101 and 8801.102 remove the incorporation of the powers and duties in Chapter 36, Water Code, and conforming changes are made throughout the rest of Chapter 8801 to incorporate general law provisions that are not otherwise included in Chapter 8801. These conforming changes include provisions related to definitions for agriculture, beneficial use, and waste; fees of office for board members; definition of a quorum; sworn statements and oaths of office; employee benefits; requirements related to disbursements, annual audits, investments, depositories, and an annual budget; civil enforcement provisions; purchasing; required board policies; district records; capping of open wells; and use of fee revenues.

C.S.H.B. 1680 also amends Chapter 8801, Special Districts Code, to make a number of updates and revisions to the Harris-Galveston Coastal Subsidence District's enabling act. Sections 8801.005 and 8801.052 are amended to delete provisions for the addition of adjacent counties to the district. Sections 8801.054, 8801.055, 8801.105, and 8801.204 are amended to correct minor codification errors, fix grammatical problems, and make clarifications. Amendments to Sections 8801.110 and 8801.157 would simplify notice requirements for hearings on permit applications. Section 8801.117 is amended to provide that the district's current planning documents will be submitted for the regional planning process. Section 8801.118 clarifies the district's authority to use the latest geodetic technology to measure subsidence. Section 8801.120 allows the district to monitor and enforce meter accuracy. Sections 8801.151, 8801.155, 8801.158, and 8801.204 add provisions to tighten up loopholes in enforcement provisions. Sections 8801.160 and 8801.163

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add language incorporating new flexible permitting tools such as disincentive fees and groundwater reduction plans. Section 8801.161 simplifies certain permit fee provisions. Sections 8801.163, 8801.164, and 8801.203 delete certain unnecessary provisions that have never been used related to monitoring of alternative water supplies and administrative appeals.

C.S.H.B. 1680 amends Chapter 1045, 1989 Tex. Gen. Laws 4251 (H.B. No. 2819), which is the enabling act of the Fort Bend Subsidence District. Amendments to Section 6 of Chapter 1045 remove the incorporation of the powers and duties in Chapter 36, Water Code, and conforming changes are made throughout the rest of Chapter 1045 to incorporate general law provisions that are not otherwise included in Chapter 1045. These conforming changes include provisions related to definitions for agriculture, beneficial use, and waste; fees of office for board members; definition of a quorum; sworn statements and oaths of office; employee benefits; requirements related to disbursements, annual audits, investments, depositories, and an annual budget; civil enforcement provisions; purchasing; required board policies; district records; capping of open wells; and use of fee revenues.

C.S.H.B. 1680 also amends Chapter 1045, 1989 Tex. Gen. Laws 4251 (H.B. No. 2819), to make a number of updates and revisions to the Fort Bend Subsidence District's enabling act. Sections 4 and 5 are amended to delete provisions for the addition of adjacent counties to the district. Sections 5, 7, 8, 10, 16, 17, 18, 22, 24, 25, 37, and 43 are amended to correct minor technical errors, fix grammatical problems, delete obsolete district start-up provisions, and make clarifications. Amendments to Sections 14 and 19 would simplify notice requirements for hearings on permit applications. Section 24 is amended to provide that the district's current planning documents will be submitted for the regional planning process. Section 28 clarifies the district's authority to use the latest geodetic technology to measure subsidence. Section 26 allows the district to monitor and enforce meter accuracy. Sections 18, 20, and 43 add provisions to tighten up loopholes in enforcement provisions. Sections 25 and 34 add language incorporating new flexible permitting tools such as disincentive fees and groundwater reduction plans. Section 8801.161 simplifies certain provisions related to permitting, procedures, exemptions, delegation of authority, and reporting, and creates improved consistency between the two subsidence districts. Sections 16, 33, 37, and 42 delete certain unnecessary provisions that have never been used related to monitoring of alternative water supplies, bonds, and administrative appeals.

EFFECTIVE DATE

The bill provides for immediate effect if the bill receives a two-thirds vote in each house. Otherwise, effective date is September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1680 modifies the original filed version by correcting a reference to licensed professional engineers and geoscientists in two different sections, one for the Harris-Galveston Coastal Subsidence District and one for the Fort Bend Subsidence District. The substitute also replaces several occurrences of the term "surface water" with "alternative water supply" to clarify that grey water and effluent reuse are additional options for reducing groundwater demand in either district. In addition, the substitute amends the enabling acts of both districts to clarify that withdrawals of injected water are subject to regulation in the same manner as other withdrawals of groundwater. The enabling act of the Harris-Galveston Coastal Subsidence District is amended to remove the word "Coastal" from the district's name and to delete an unused and unnecessary provision in Section 8801.153 related to restrictions on requirements for certain municipalities. Finally, C.S.H.B. 1680 is significantly edited and reformatted to conform to Legislative Council drafting guidelines.