

BILL ANALYSIS

H.B. 2214
By: Otto
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas faces a difficult challenge to develop water policies that serve state and regional interests. The Texas Constitution authorizes the creation of groundwater conservation districts to plan, develop, and regulate the use of water. House Bill 2214 ratifies the creation of the Lower Trinity Groundwater Conservation District, subject to approval at a confirmation election, to manage Liberty, Polk and San Jacinto counties' groundwater resources.

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 Subtitle H, Title 6, Special District Local Laws Code, by adding Chapter 8807, as follows:

CHAPTER 8807. LOWER TRINITY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8807.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8807.002. NATURE OF DISTRICT. Provides that the district is a groundwater conservation district in Liberty, Polk, and San Jacinto counties created under and essential to accomplish the purpose of Section 59, Article XVI, Texas Constitution.

Sec. 8807.003. CONFIRMATION ELECTION REQUIRED. Provides for the dissolution of the district and the expiration of this chapter if the creation of the district is not confirmed at a confirmation election held under Section 8807.023 before September 1, 2007.

Sec. 8807.004. INITIAL DISTRICT TERRITORY. (a) Provides that, except as provided by Subsection (b), the initial boundaries of the district are coextensive with the boundaries of Liberty, Polk, and San Jacinto Counties.

(b) Provides that, if the creation of the district is not confirmed by the voters of a county at an election held under Section 8807.023, that county is not included in the district.

Sec. 8807.005. ADDITION OF ADJACENT COUNTY TO DISTRICT. (a) Authorizes a county adjoining the district to petition to join the district by resolution of the county commissioners court.

(b) Authorizes the board of directors of the district (board) by resolution, if, after a hearing on the resolution, the board finds that the addition of the county would benefit the district and the county to be added, to approve the addition of the county to the district.

(c) Provides that the addition of a county under this section is not final until approved by the voters in the county to be added at an election held for that purpose.

(d) Requires the ballots for the election to be printed to permit voting for or against the proposition. Sets forth the specific language for the ballots.

(e) Provides that, if a majority of the votes are cast in favor of the addition of the county to the district, the county is added to the district, and the district boundaries are adjusted accordingly. Provides that, if less than a majority of the votes are cast in favor of the addition of the county to the district, the county is not added to the district.

Sec. 8807.006. **APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW.** Provides that, except as otherwise provided by this chapter, Chapter 36 (Groundwater Conservation Districts), Water Code, applies to the district.

[Reserves Sections 8807.007-8807.020 for expansion.]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 8807.021. **TEMPORARY DIRECTORS.** (a) Requires temporary directors, not later than the 45th day after the effective date of the Act creating this chapter, to be appointed in the same manner as provided by Section 8807.052(a) for permanent directors.

(b) Sets forth certain results if the voters of one county do not confirm the creation of the district under Section 8807.023.

(c) Sets forth certain results if the voters of two counties do not confirm the creation of the district under Section 8807.023.

(d) Requires, if there is a vacancy on the temporary board of directors, each governing body of the entity that appoints the director who vacated the office to appoint a person to fill the vacancy.

(e) Provides that temporary directors serve until the earlier of certain dates.

Sec. 8807.022. **ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS.** Requires a majority of the temporary directors, as soon as practicable after all the temporary directors have qualified under Section 36.055 (Sworn Statement, Bond, and Oath of Office), Water Code, to convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. Requires the organizational meeting, if an agreement on location cannot be reached, to be at the Polk County Courthouse.

Sec. 8807.023. **CONFIRMATION ELECTION.** (a) Requires the temporary directors to hold an election on the same date in Liberty, Polk, and San Jacinto counties to confirm the creation of the district.

(b) Requires a confirmation election, except as provided by this section, to be conducted as provided by Sections 36.017 (Confirmation and Directors' Election for District in Management Area), 36.018 (Inclusion of Municipality), and 36.019 (Confirmation Election in District Including Land in More Than One County), Water Code, and by the Election Code. Provides that the provision under Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to a confirmation election under this section.

Sec. 8807.024. **INITIAL DIRECTORS.** (a) Provides that, if the creation of the district is confirmed at an election held under Section 8807.023, the temporary directors of the

district become the initial directors of the district and serve on the board of directors until permanent directors are appointed under Section 8807.052.

- (b) Sets forth certain term limits if a district has seven initial directors.
- (c) Sets for certain term limits if a district has five initial directors.
- (d) Provides that, if the district has three initial directors, the term of one director will expire on December 31 in 2006, 2007, and 2008.
- (e) Requires the initial directors, excluding the director appointed jointly by counties, to draw lots to determine their terms.

Sec. 8807.025. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2010.

[Reserves Sections 8807.026-8807.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8807.051. GOVERNING BODY. Provides that the district is governed by a board of directors, which is required to initially consist of not fewer than three and not more than seven directors, appointed as provided by Section 8807.052.

Sec. 8807.052. APPOINTMENT OF DIRECTORS. (a) Requires seven directors to be appointed in a certain manner if the voters in Liberty, Polk, and San Jacinto counties confirm the creation of the district.

- (b) Requires five directors to be appointed in a certain manner if the voters in two counties confirm the creation of the district.
- (c) Requires three directors to be appointed in a certain manner if the voters in only one county confirm the creation of the district.

Sec. 8807.053. CHANGE IN COMPOSITION; ADDITIONAL COUNTY. Authorizes the board, if a county is added to the district under Section 8807.005, to change the number of directors so that an equal number of directors is appointed from each county and one director is appointed jointly by the counties in the district.

Sec. 8807.054. TERMS. Provides that the directors serve staggered three-year terms.

Sec. 8807.055. VACANCY; RULES. (a) Requires, if there is a vacancy on the board, the governing body of each entity that appointed the director who vacated to appoint a director to serve the remainder of the term.

- (b) Requires the board to adopt rules to establish when a vacancy has occurred.

Sec. 8807.056. PRESIDING OFFICER. Requires the jointly appointed director under Section 8807.052(a)(7) or (b)(3) or the additional director appointed under Section 8807.052(c)(3) to serve as the presiding officer of the board.

Sec. 8807.057. QUALIFICATIONS; GROUNDWATER PRODUCER. Provides that a person is not disqualified from serving as a director if that person is an employee, manager, director, or officer of a groundwater producer that is or may be regulated by the district.

Sec. 8807.058. COMPENSATION; REIMBURSEMENT. (a) Provides that a director is not entitled to receive compensation for serving as a director.

- (b) Authorizes a director to receive reimbursement for actual, reasonable expenses incurred in the discharge of official duties.

Sec. 8807.059. VOTING REQUIREMENT. Provides that a majority vote of a quorum is required for board action.

[Reserves Sections 8807.060-8807.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8807.101. PRODUCTION FEES. (a) Authorizes the district to assess reasonable fees on each well in the district. Sets forth the means to determine the amount of the fee.

(b) Provides that this section does not apply to certain wells.

Sec. 8807.102. WELLS EXEMPT FROM REGULATION. (a) Prohibits the district from requiring a permit for certain wells.

(b) Prohibits the district from assessing fees on a well that meets the criteria established under Section 36.117(b) (Exemptions; Exceptions; Limitations), Water Code.

Sec. 8807.103. TAXES PROHIBITED. Prohibits the district from imposing a tax.

Sec. 8807.104. LIMIT ON ISSUANCE OF BONDS. Prohibits the district from issuing any bonds or other obligations that pledge revenue derived from district taxation.

Sec. 8807.105. EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

Sec. 8807.106. LIMIT ON PURCHASE OF GROUNDWATER RIGHTS FOR CONSERVATION PURPOSES. Authorizes the district to purchase groundwater rights only if the purchased rights are acquired for conservation purposes and are held in trust permanently.

SECTION 2. (a) Provides that the legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313 (Notice for Local and Special Laws), Government Code.

(b) Provides that the governor has submitted the notice and Act to the Texas Commission on Environmental Quality (commission).

(c) Provides that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

EFFECTIVE DATE

Upon passage or September 1, 2005.

