BILL ANALYSIS

C.S.H.B. 2707
By: Rodriguez
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

This legislation gives the Barton Springs/Edwards Aquifer Conservation District ("District") the authority to adopt an alternative fee structure to encourage voluntary conservation and the conjunctive use of surface and groundwater resources. Currently, the District's production fees are statutorily capped at 17 cents per thousand gallons of water. This fee-based incentive applied to future permittees is designed to free additional groundwater for production during non-drought periods and help avoid the need for traditional regulatory enforcement mechanisms. This legislation is only applicable to new or materially-amended permits and grandfathers existing permittees under the current fee structure.

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 Section 36.205(d), Water Code to exclude the District from caps on production fees charged by groundwater conservation districts. Also eliminates a provision that authorizes the District to assess against a municipality a water use fee in an amount representing up to 60 percent of the total funding received by the district from water use fees assessed against the municipality and other nonexempt users.

SECTION 2. Amends the District's Enabling Act to increase the water use fee that the District board may assess the City of Austin up to an amount representing 60 percent of the total funding from water use fees that the district expects to receive from Austin and other nonexempt users in the next fiscal year. To compute water use fees for the next fiscal year, the district must estimate the amount of permitted pumpage by considering various factors, including historical growth rates, future growth rates, the amount of permitted pumpage, historical permitted pumpage, and any pending applications for permitted pumpage. The District must use the estimated amount of permitted pumpage and its water use rate to compute the water use fee to be assessed against the City of Austin in the next fiscal year. The District must compute the City of Austin's water use fee at a rate of 17 cents per thousand gallons for the total amount of water permitted for any nonagricultural purpose, regardless of the rate actually imposed on the permittee.

The District board may not charge an annual production fee over $1 per acre-foot for water used for agriculture, or 17 cents per thousand gallons for non-agricultural water. However, the District board may charge a production fee of up to 35 cents per thousand gallons of water for non-agricultural water for permits approved or amended after September 1, 2005, or a permit issued after September 9, 2004 and renewed after September 1, 2005. The board may adopt a differential rate structure for nonagricultural production fees to promote alternatives to the exclusive use of groundwater resources.

SECTION 3. Sets forth legislative findings.

EFFECTIVE DATE

C.S.H.B. 2707 takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. SECTION 3 of the of the bill as filed is now SECTION 1.

SECTION 2. The substitute modifies the original by requiring the District, when assessing water use fees for the City of Austin, to consider various factors in estimating the permitted pumpage for the next fiscal year. The substitute also requires the District to compute the water use fee for the City of Austin at 17 cents per thousand gallons of nonagricultural water, regardless of the rate actually imposed on the permittee. The substitute increases the annual non-agricultural production fee contained in the original bill for a permit approved or materially-amended after September 1, 2005, or a permit issued after September 9, 2004, and renewed after September 1, 2005, from 31 cents per thousand gallons to 35 cents per thousand gallons.