

BILL ANALYSIS

C.S.H.B. 3181
By: Turner
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Constitution authorizes the creation of conservation and reclamation districts to plan, develop and regulate the use of water. In 1975, the Texas Legislature created the Harris-Galveston County Subsidence District "for the purpose of ending subsidence, which contributes to or precipitates flooding, inundation, or overflow of the district, including without limitation rising waters resulting from storms or hurricanes." The Subsidence District has an overall goal to reduce groundwater withdrawal to no more than 20% of the area's total water demand by 2030. To meet this goal, the District has imposed groundwater reduction requirements on water providers, including municipal utility districts (MUDs). To comply with the District's requirements, municipal utility districts have joined together in regional water authorities to efficiently convert from groundwater to surface water. In 1999, the North Harris County Regional Water Authority was authorized by the Legislature and the West Harris Regional Authority was created in 2001.

C.S.H.B. 3181 creates the Central Harris County Regional Water Authority comprised of 11 MUDs primarily located north of the City of Houston, east of SH 249, south of FM 1960 and west of I-45. The Central Authority will include: Harris County MUD No. 33, Harris County MUD No. 150, Harris County MUD No. 200, Harris County MUD No.205, Harris County MUD No. 215, Harris County MUD No.217, Harris County MUD No. 304, Harris County MUD No. 399, Harris County MUD No. 16, Fallbrook MUD, and Rankin Road West MUD.

Creation of the authority will allow MUDs in this region to participate in an entity through which they can influence water decisions for the area, provide a mechanism to prepare a combined groundwater reduction plan for all entities within the authority and combine resources to purchase surface water for the region.

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. 3181 creates the Central Harris County Regional Water Authority. The substitute sets forth provisions regarding the boundaries of the Authority, the exclusion of territory, and the annexation of territory.

C.S.H.B. 3181 includes temporary provisions establishing an initial board of directors. The Authority is governed by a board of five directors; three of whom represent single-member voting districts, and two of whom are elected at large. It specifies that directors are to serve four-year staggered terms, establishes eligibility requirements to serve as a director, and provides that an official or employee of a public entity is not necessarily disqualified from serving as a director. The substitute also sets the boundaries of the three single member-voting districts, provides for the appointment of directors representing single-member districts and those elected at large, provides for filling vacancies on the board, authorizes board meetings, and provides governmental immunity for certain director actions. The board is authorized to employ or contract with a person to be a general manager of the district and to delegate to the general manager full authority to manage and operate the authority.

The Authority is authorized to:

- ? provide for the conservation of groundwater and facilitate compliance with the Harris-Galveston Coastal Subsidence District requirements;
- ? acquire or develop surface water and groundwater supplies from sources inside and outside of the Authority and to store, transport, treat, distribute, sell, and allocate water to persons inside and outside of the authority;
- ? enter into contracts with persons inside or outside of the Authority;
- ? coordinate water services; and
- ? administer and enforce the provisions of the bill.

The substitute excepts the Authority from Sections 49.451 - 49.455, Water Code. The Authority has the rights, powers, and privileges necessary to carry out the bill, subject to the State's right of supervision to be exercised through the Texas Commission on Environmental Quality.

The substitute authorizes the authority to establish and impose fees, user fees, rates, and charges as necessary to fulfill the authority's purpose and sets forth provisions regarding these charges. The bill provides that the authority may not assess charges on certain wells.

The substitute sets forth provisions governing the Authority's purchase of water from another entity for resale to local governments. The substitute authorizes the board to undertake improvement projects and sets forth provisions regarding the imposition of assessment fees for these projects. The substitute sets forth provisions regarding holding a hearing on the advisability of these operations and fees, and authorizes the board to establish rules regarding procedures for a hearing. The substitute authorizes the board to require the payment of interest and penalties for late or unpaid fees. The substitute provides that a person who violates a rule or order of the authority is subject to a civil penalty of not more than \$5,000 for each violation and authorizes the authority to bring an action to recover the penalty or for injunctive relief in a district court in the county where the violation occurred or is threatened to occur.

The substitute authorizes the authority by rule to develop and manage a comprehensive water supply or drought contingency plan, as well as a groundwater reduction plan, and sets forth provisions regarding the plan.

The Authority is also authorized to:

- acquire, design, finance, construct, maintain, operate, lease, or sell a water treatment or supply system or any other facility necessary to accomplish the purposes of the authority inside or outside of the Authority;
- contract with any person to operate or maintain a water treatment or supply system the person owns; and
- acquire water rights.

Competitive bidding laws in Chapter 49, Water Code apply to the authority. The substitute sets forth provisions for contracting with a person outside of the Authority's boundaries to include the person in a groundwater reduction plan, sell water to the person, or sell additional capacity of the Authority's treatment or supply system. The Authority is authorized to regulate the construction of certain water lines within the district.

The substitute authorizes the Authority to store, sell, or reuse water or any by-product of the Authority's operations. The bill also sets forth provisions regarding the Authority's ability to enter into contracts, including contracts to acquire an interest in a project used for a purpose or function of the Authority, and acquire water rights, perform activities, design works or other facilities. The authority may purchase surplus property from this state, the United States, or another public entity through a negotiated contract without bids.

The bill sets forth provisions regarding the Authority's ability to cooperate with other public agencies and governments, including entering into interlocal agreements, developing plans, and considering studies prepared by other agencies. The bill sets forth provisions regarding the Authority's ability to accept gifts and grants and disburse money. The bill prohibits the Authority from imposing an ad valorem tax.

C.S.H.B. 3181 79(R)

The substitute authorizes the Authority to exercise the power of eminent domain within or outside the Authority's boundaries, except for the purpose of acquiring water or water rights. The Authority also is prohibited from condemning land owned by the City of Houston, or any land located within the municipal limits of the City of Houston unless the land is located in certain areas or the city grants permission for the condemnation.

The substitute authorizes the authority to, without an election, borrow money on negotiable notes and issue bonds, and sets forth provisions regarding the notes and bonds.

EFFECTIVE DATE

C.S.H.B. 3181 takes effect immediately if it receives a 2/3rds vote in both chambers, otherwise it takes effect Sept. 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3181 is a legislative council draft of the bill that makes several additional changes.

H.B. 3181, as filed, did not specify the Act in Texas statute. C.S.H.B. 3181 amends Subtitle H, Title 6, Special District Local Laws Code by adding a new Chapter 8815.

C.S.H.B. 3181 provides a process for excluding land within the Central Harris County Regional Water Authority that has been annexed by a municipality.

C.S.H.B. 3181 requires that the Central Harris County Regional Water Authority obtain the consent of the City prior to providing water to a person or entity outside the Authority unless a member MUD had a contract to provide service prior to the effective date of this Act.

C.S.H.B. 3181 eliminates language found in the original bill relating to “refunding bonds” because it is not necessary to restate a general power granted to entities authorized by the state to issue bonds.

C.S.H.B. 3181 provides that the “temporary provisions” will expire on September 1, 2010.