

BILL ANALYSIS

C.S.H.B. 3484
By: Gallego
Natural Resources
Committee Report (Substituted)

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 districts to plan, develop, and regulate the use of water. HB 3484 creates the Val Verde Groundwater Conservation District, subject to approval at a confirmation election, to manage Val Verde's 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. DEFINITIONS. Defines the terms ABoard@ and ADistrict.@

SECTION 2. CREATION. A groundwater conservation district, to be known as the Val Verde Groundwater Conservation District (district), is created in Val Verde County, subject to voter approval at a confirmation election under Section 7 of this Act.

SECTION 3. FINDINGS OF BENEFIT. The district is created to serve a public use and benefit.

SECTION 4. CONTINUING PROVISIONS OF DISTRICT. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8804 as follows:

Subchapter A

Sec. 8804.001. DEFINITIONS. Defines Aagriculture use@, Aagriculture@, Aboard@, Adirector@, Adistrict@, Adomestic use@, and Apolitical subdivision@ as used in the bill.

Sec. 8804.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Val Verde County created under Section 59, Article XVI, Texas Constitution.

Sec. 8804.003. DISTRICT PURPOSE. The district is created to provide for the protection, recharging, and prevention of waste of groundwater in the Val Verde County area.

Subchapter B

Sec. 8804.051. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Val Verde County.

Subchapter C

Sec. 8804.101. BOARD. The board consists of seven directors.

Sec. 8804.102. METHOD OF ELECTING DIRECTORS. The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

§ Three members shall be elected by the voters of the entire district

§ One member shall be elected from each county commissioners= precinct by the voters of that precinct.

Sec. 8804.103. ELECTION DATE. The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in November of each even-numbered year.

Sec. 8804.104. TERMS. The directors shall serve staggered four-year terms and may serve for consecutive terms.

Sec. 8804.105. COMPENSATION. The directors are not entitled to receive fees of office for performing the duties of a director. The board may authorize reimbursement for the directors= reasonable expenses incurred while engaging in activities outside the district on behalf of the board.

Subchapter D

Sec. 8804.151. POWERS AND DUTIES. Provides that the district has all the powers and duties provided the general law of this state, including Chapter 36, Water Code.

Sec. 8804.152. PERMIT TO TRANSFER GROUNDWATER. The district shall require a person to obtain a permit from the district to transfer groundwater out of the district and regulate the terms of the transfer.

The district shall develop rules under this section that are consistent with the requirements of Section 36.122, Water Code; manage the issuance of permits using a sustainable yield calculation; maintain at least the 1996 minimum spring flow of San Felipe Springs and at least the minimum flows of all other springs in the district.

The district shall use a groundwater availability model, and not historical use, as a basis for issuing permits

Sec. 8804.153. PERMITS FOR USE SOLELY INSIDE DISTRICT. The district shall grant the City of Del Rio a permit in the city=s names that authorizes the city to pump from all city wells a stated cumulative amount of not less than 15,000 acre-feet of water annually for use solely inside the district. If sufficient groundwater is available, the district shall amend the city=s permit to authorize the city to pump a stated cumulative amount of not less than 20,000 acre-feet of water annually for use solely inside the district. This section does not limit the city=s right to apply for or obtain a permit to transfer groundwater.

The district shall grant a nonprofit rural water supply corporation, water district, or other political subdivision a permit to pump from its wells annually a volume of water that is not less than the volume equal to twice its greatest water usage in a calendar year for use solely inside the district.

Sec. 8804.154. AGRICULTURE USE PERMIT. The district shall grant any application for an agricultural use permit for any well that is used solely for agriculture use inside the district and that is not less than five acre-feet of water per acre actually cultivated per year. An agricultural use permit is nontransferable and expires on the date the well ceases to be used for agricultural use inside the district. This section does not limit the well owner=s right to apply for or obtain a permit to transfer groundwater.

Sec. 8804.155. LIMITATION ON WELL PERMIT REQUIREMENTS. The district may not require a person to obtain a permit from the district for a well used solely for domestic use or for providing water for livestock or poultry on a tract of land smaller than 10 acres that is either drilled, completed, or equipped so that it is incapable of producing more than 30,000 gallons of groundwater a day; a tract of land 10 acres or larger that is incapable of producing 50,000 gallons of groundwater a day; or any well in use before the date the district is confirmed at an election and used solely for agricultural use.

Sec. 8804.156. REPLACEMENT WELL. A new well that replaces an abandoned or decommissioned well is subject to the same permit requirements or exemption as the well it replaces if the replacement well is used solely for the same purposes and the same area as the well it replaces.

Sec. 8804.157. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. The district may not purchase, sell, transport, or distribute surface water or groundwater for any purpose.

Sec. 8804.158. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain.

Sec. 8804.159. REGIONAL COOPERATION. To provide for regional continuity, the district shall participate in coordination meetings, coordinate the collection of data, coordinate efforts to monitor water quality, and provide groundwater level data to other groundwater conservation districts in its designated management area, local governments, and state agencies. The district shall investigate any groundwater or aquifer pollution and notify other groundwater conservation districts and all appropriate agencies of any groundwater pollution detected.

Sec. 8804.160. WATER CONSERVATION INITIATIVE. The district may create a water conservation initiative as described by Section 11.32, Tax Code.

Sec. 8804.161. TEXAS WATER DEVELOPMENT BOARD STUDY. At least once every 10 years and at any other time the board considers necessary, the staff of the Texas Water Development Board shall make a complete study of the groundwater in the district.

Sec. 8804.162. LOCAL STUDY OF GROUNDWATER AVAILABILITY. Not later than the 10th anniversary of the date on which the district is confirmed, the district shall complete a study to determine whether there is sufficient groundwater to amend the permit granted to the City of Del Rio.

Sec. 8804.163. MORATORIUM ON TRANSFER PERMITS. The district shall impose a moratorium on the issuance of permits for the transfer of groundwater during each period set aside to conduct and consider a groundwater study.

Sec. 8804.164. SPRING FLOW AND GROUNDWATER AVAILABILITY ADVISORY PANEL. Provides for appointment of a springflow and groundwater availability advisory panel to determine the minimum springflow of each spring and the groundwater availability in the district.

Subchapter E

Sec. 8804.201. LIMITATION ON TAXES. The district may not levy ad valorem taxes at a rate that exceeds five cents on each \$100 of assessed valuation of taxable property in the district.

Sec. 8804.202. FEES. The board may impose reasonable fees on each well.

Sec. 8804.203. EXEMPTION FROM FEES. The district may not impose a fee on a well drilled by a nonprofit rural water supply corporation, water district, or other political subdivision if the well's production is for use within the district. The district may impose a reasonable and temporary fee if severe drought or another district emergency makes the fee necessary and the term of the order does not exceed 180 days.

SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS. Not later than the 45th day after the effective date of this Act:

- \$ the Val Verde County Commissioners Court shall appoint temporary directors from each of the four commissioners precincts in the county to represent the precinct in which the temporary directors reside;
- \$ the County Judge shall appoint one temporary director who resides in the district

to represent the district at large; and
\$ the Del Rio City Council shall appoint two temporary directors who reside in the district to represent the district at large.

SECTION 6. LIMITED POWERS AND DUTIES OF TEMPORARY BOARD OF DIRECTORS. Provides for powers and duties of the temporary board.

SECTION 7. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practical, a majority of the temporary directors shall convene the organizational meeting of the district as a location within the district agreeable to a majority of the directors. If no location is agreed upon, the meeting shall be held at the Val Verde County Courthouse.

SECTION 8. CONFIRMATION ELECTION. The temporary directors shall hold an election to confirm the creation of the district.

SECTION 9. INITIAL DIRECTORS. If creation of the district is confirmed, the temporary directors become the initial directors of the district and serve on the board of directors until permanent directors are elected.

SECTION 10. ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, an election shall be held in the district for the election of seven directors.

SECTION 11. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. This section explains the procedural requirement that must be met for the passage of this Act.

SECTION 12. STUDY COMPLETION. The Texas Water Development Board shall complete the initial study and deliver the finding of the study to the board no later than 180th day after the date the district is confirmed.

SECTION 13. EXPIRATION. If the creation of the district is not confirmed, this Act expires on that date.

SECTION 14. EFFECTIVE DATE. On passage; or if the Act does not receive the necessary vote, September 1, 2005.

EFFECTIVE DATE

On passage; or if the Act does not receive the necessary vote, September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. No changes.

SECTION 2. **Strikes Section 7 and replaces it with Section 8 of this Act.**

SECTION 3. No changes.

SECTION 4. CONTINUING PROVISIONS OF DISTRICT.

Sec. 8804.001. DEFINITIONS. No changes

Sec. 8804.002. NATURE OF DISTRICT. No changes.

Sec. 8804.003. DISTRICT PURPOSE.

(1) **strikes the word Aarea@**

(2) **strikes the word Aarea@**

(4) strikes the subsection and replaces it to read as follows: **manage the issuance of permits for the transfer of groundwater by requiring groundwater availability models of permit applications; and**

(5) rewords subsection to read as follows: **protect water quality.**

Sec. 8804.051. BOUNDARIES. No changes.

Sec. 8804.101. BOARD. No changes.

Sec. 8804.102. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. No changes.

Sec. 8804.103. ELECTION DATE. No changes.

Sec. 8804.104. TERMS. No changes.

Sec. 8804.105. COMPENSATION. No changes.

Sec. 8804.151. POWERS AND DUTIES. No changes.

Sec. 8804.152. PERMIT TO TRANSFER.

(a) no changes

(b) strikes subsections (2) and (3) and only read as follows: **The district shall develop rules under this section that are consistent with the requirements of Section 36.122, Water Code.**

(c) no changes

(d) no changes

(e) this subsection is added to read as follows: **In the event of a conflict between the information provided by the groundwater study conducted under Section 8804.161 and the recommendations submitted under Section 8804.164 regarding the minimum flow requirements for any spring in the district, the determination of the Texas Water Development Board study under Section 8804.161 controls for purposes of development of rules under this section.**

Sec. 8804.153. PERMITS FOR USE SOLELY INSIDE DISTRICT. No changes.

Sec. 8804.154. AGRICULTURAL USE PERMIT. No changes.

Sec. 8804.155. LIMITATION OF WELL PERMIT REQUIREMENTS. No changes.

Sec. 8804.156. REPLACEMENT WELL. No changes.

Sec. 8804.157. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. No changes.

Sec. 8804.158. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN. No changes.

Sec. 8804.159. REGIONAL COOPERATION. No changes.

Sec. 8804.160. WATER CONSERVATION INITIATIVE. No changes.

Sec. 8804.161. TEXAS WATER DEVELOPMENT BOARD.

(1) no change

(2) no change

(3) no change

(4) no change

(5) strikes language and rewords to read as follows: **other information to the sustainable yield of the aquifer under Section 8804.152(b)(2).**

Sec. 8804.162. LOCAL STUDY OF GROUNDWATER AVAILABILITY.

(a) no changes.

(b) **strikes the word Amay@ and replaces it with Ashall@.**

Sec. 8804.163. MORATORIUM ON TRANSFER PERMITS.

(a) adds **¶Except as provided by Subsection (d),@**

(b) no changes

(c) no changes

(1) no changes

(2) changes the subsection to read as follows: **the spring flow and groundwater availability advisory panel makes a determination under Section 8804.164 of the:**

(A) flow of each spring in the district; and

(B) groundwater availability in the district.

(3) **strikes this subsection**

(d) **adds this subsection to read as follows: The board by emergency order may issue a permit during a moratorium on the affirmative vote of at least five directors.**

Sec. 8804.164. SPRING FLOW AND GROUNDWATER AVAILABILITY ADVISORY PANEL. Adds this section explaining the makeup of the advisory panel as well as the duties of the panel.

Sec. 8804.201. LIMITATION ON TAXES. No changes.

Sec. 8804.202. FEES. No changes.

Sec. 8804.203. EXEMPTION FROM FEES.

(a) no changes.

(b) no changes.

(1) **strikes the language and replaces it with: at least five of the directors approve the emergency order;**

(2) **strikes the language and replaces it with: severe drought or another district emergency makes the fee necessary; and**

(3) the term of the order does not exceed 180 days.

SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS.

(a) no changes.

(b) no changes.

(c) **strikes ¶remaining temporary directors@ and adds: ¶authority who appointed the temporary director whose position is vacant@**

(d) **strikes language and rewords as follows:**

Temporary directors serve until the earliest of the date:

(1) temporary directors become initial directors as provided by Section 9 of this Act;

(2) the confirmation election under Section 8 of this Act fails to pass;
or

(3) this Act expires under Section 13.

SECTION 6. LIMITED POWERS AND DUTIES OF TEMPORARY BOARD OF DIRECTORS. Adds this section to address the powers and duties of the temporary board of directors.

SECTION 7. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. No changes.

SECTION 8. CONFIRMATION ELECTION.

(a) no changes.

(b) no changes.

(c) no changes.

(d) no changes.

(e) changes **A5 cents@** to **A2.5 cents@**, strikes **Awith not more than@** and replaces it with **Afor the first two tax years after the district=s confirmation and at a rate not to exceed@**, strikes **Atax@**, strikes **Afor the first two tax years after the district=s confirmation@**

(f) changes the language to read as follows: **If a majority of the voters at a confirmation election under this section do not vote in favor of the ballot proposition, the proposition fails and the temporary board is dissolved. The authorities that appointed the temporary board may agree to establish a new temporary board in the manner provided by Section 5 of this Act. A person who served on the original or a subsequent temporary board is eligible to serve on another temporary board. Each temporary board has the duties and powers provided by this section and Sections 6 and 7 of this Act.**

(g) this section is added and reads as follows contains the language in subsection (f) of the original language.

SECTION 9. INITIAL DIRECTORS.

(a) changes Section **A7"** to **A8"** and Section **A9"** to **A10"**.

(b) this subsection added and read as follows: **The initial directors have the powers and duties of the temporary directors under Section 6(a)(2)-(4), (b), and (c) of this Act, and shall hold an election for permanent directors under Section 10 of this Act.**

SECTION 10. ELECTION OF PERMANENT DIRECTORS. No changes

SECTION 11. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. No changes

SECTION 12. STUDY COMPLETION. Strikes **A180th day after the date@** and replaces it with **Alast day of the 18th month after the month in which@**.

SECTION 13. EXPIRATION.

(a) changes Section **A7"** to **A8"**.

(b) changes Section **A7"** to **A8(g)@**.

SECTION 14. This Act takes effect immediately if it receives the necessary votes in each house.

If this Act fails to receive the vote necessary votes, this Act takes effect September 1, 2005.

