

BILL ANALYSIS

S.B. 1847
By: Zaffirini
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Duval County currently has three water districts, but the creation of a groundwater district (district) will be helpful to protect and regulate the county's water for future use. It will authorize the district to purchase, sell, and distribute groundwater or surface water. The creation of a new water district will not dissolve any of the existing water districts.

As proposed, S.B. 1847 creates a groundwater conservation district in Duval County in order to monitor, manage, and conserve groundwater.

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 8808, as follows:

CHAPTER 8808. DUVAL COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8808.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8808.002. NATURE OF DISTRICT. Provides that the Duval County Groundwater Conservation District (district) is a groundwater conservation district in Duval County created under and essential to accomplish the purposes of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

Sec. 8808.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held before September 1, 2007, the district is dissolved on September 1, 2007, except for certain purposes and provides that this chapter expires on September 1, 2010.

Sec. 8808.004. INITIAL DISTRICT TERRITORY. Provides that the initial boundaries of the district are coextensive with the boundaries of Duval County, Texas.

Sec. 8808.005. 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 8808.006-8808.020 for expansion.]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8808.021. APPOINTMENT OF TEMPORARY DIRECTORS. Requires five temporary directors to be appointed by specific individuals, not later than the 45th day after the effective date of this chapter. Requires the remaining temporary directors to

appoint a person to fill the vacancy in a manner that meets the representational requirements of this section, if there is a vacancy on the temporary board of directors (board) of the district. Sets forth terms for the temporary directors.

Sec. 8808.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Requires a majority of the temporary directors to convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors, as soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code. Requires the organizational meeting to be at the Duval County Courthouse, if an agreement on location cannot be reached.

Sec. 8808.023. CONFIRMATION ELECTION. Requires the temporary directors to hold an election to confirm the creation of the district. Provides that Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section. Requires a confirmation election to be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code, except as provided by this section. Provides that the provision of Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to a confirmation election under this section.

Sec. 8808.024. INITIAL DIRECTORS. Provides that if creation of the district is confirmed at an election held under Section 8808.023, the temporary directors of the district become the initial directors of the district and serve on the board of directors until permanent directors are elected under Section 8808.025. Sets forth terms for the initial directors and the at-large director.

Sec. 8808.025. INITIAL ELECTION OF PERMANENT DIRECTORS. Requires an election to be held in the district for the election of two directors to replace the initial directors who, under Section 8808.024(b), serve a term expiring June 1 following that election, on a specific election date.

Sec. 8808.026. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2010.

[Reserves Sections 8808.027-8808.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8808.051. DIRECTORS; TERMS. Provides that the district is governed by a board of five directors. Sets forth term guidelines. Authorizes the director to serve consecutive terms.

Sec. 8808.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) Requires the directors of the district to be elected according to the commissioners precinct method as provided by this section.

(b) Requires one director to be elected by the voters of the entire district, and one director to be elected from each county commissioners precinct by the voters of that precinct.

(c) Requires a person to be a registered voter in the district, except as provided by Subsection (e), to be eligible to be a candidate for or to serve as director at large. Requires a person to be a registered voter of that precinct to be a candidate for or to serve as director from a county commissioners precinct.

(d) Requires a person to indicate specific information on the application for a place on the ballot.

(e) Requires a director elected or appointed before the effective date of the precinct change, when county commissioner precincts are redrawn to reflect changes in population, to serve in the precinct to which elected or appointed even

though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

Sec. 8808.053. ELECTION DATE. Requires the district to hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in May of each even-numbered year.

Sec. 8808.054. COMPENSATION. (a) Provides that Sections 36.060(a), (b), and (d), Water Code, do not apply to the district.

(b) Provides that a director is entitled to receive compensation of not more than \$50 a day for each day the director actually spends performing the duties of a director, but prohibits the compensation from exceeding \$3,000 a year.

(c) Authorizes the board to authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the board.

[Reserves Sections 8808.055–8808.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8808.101. COURT-APPOINTED RECEIVER. Authorizes the district to serve as the court-appointed receiver in a matter determined by a court concerning the disposition of assets of any other district authorized by Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, including a municipal utility district or a water control and improvement district in Duval County.

Sec. 8808.102. POWER TO CONTRACT WITH MUNICIPAL UTILITY DISTRICTS. Authorizes the district to enter into a contract with a municipal utility district in Duval County to assume the functions of the municipal utility district. Authorizes a contract under this section to include specific provisions.

Sec. 8808.103. RELATION TO OTHER WATER-RELATED ENTITIES. (a) Provides that to the extent that a rule of the district conflicts with a rule of a water control and improvement district, the rule of the water control and improvement district controls.

(b) Provides that to the extent that a rule of the district conflicts with a rule of a municipal utility district, the rule of the municipal utility district controls.

(c) Provides that notwithstanding Subsections (a) and (b), to the extent that a rule of the district concerning groundwater conflicts with a rule of a water control and improvement district or a municipal utility district whose territory is located wholly or partly in the district's territory, the rule of the district controls.

[Reserves Sections 8808.104-8808.150 for expansion.]

SUBCHAPTER D. MERGER WITH WATER CONTROL AND IMPROVEMENT DISTRICT

Sec. 8808.151. DEFINITIONS. Defines "commission" and "directors."

Sec. 8808.152. AUTHORITY FOR AGREEMENT FOR MERGER; PROVISIONS. Authorizes the district to enter into a merger agreement with a water control and improvement district in Duval County, subject to Sections 8808.153, 8808.154, and 8808.155. Requires the merger agreement to include specific provisions.

Sec. 8808.153. BOARD AND DIRECTORS APPROVAL OF MERGER AGREEMENT. Requires the board and the directors to each approve the proposed merger agreement in accordance with the laws, rules, and procedures applicable to the district and the water control and improvement district, before an election to confirm a proposed merger agreement described by Section 8808.152 may be held.

Sec. 8808.154. COMMISSION DETERMINATION OF DISTRICT CAPABILITY FOR SERVICE. Requires the Texas Environmental Quality Commission (TCEQ) to determine that the district is capable of rendering adequate and continuous service as required by Section 13.251, Water Code, before an election to confirm a proposed merger agreement described by Section 8808.152 may be held.

Sec. 8808.155. ELECTION TO CONFIRM MERGER AGREEMENT. Requires the board to hold an election to confirm the agreement, before a proposed merger agreement described by Section 8808.152 may take effect. Requires the election to be held on a specific date after the board and the directors approve the proposed merger that allows sufficient time for the board to comply with all applicable provisions of the Election Code.

Sec. 8808.156. BALLOTS FOR ELECTION. Requires the ballot for an election under Section 8808.155 to include specific text.

Sec. 8808.157. ELECTION RESULTS FOR MERGER WITH WATER CONTROL AND IMPROVEMENT DISTRICT. (a) Provides that if a majority of the voters voting in an election under Section 8808.155 both in the area of the water control and improvement district and in the territory of the district outside that area vote in favor of the ballot proposition, the proposed merger agreement takes effect.

(b) Provides that if a majority of the voters voting in an election under Section 8808.155 either in the area of the water control and improvement district or in the territory of the district outside that area do not vote in favor of the ballot proposition, the proposed merger agreement does not take effect and prohibits the board from holding a subsequent election to confirm a proposed merger agreement between the same water control and improvement district and the district before the first anniversary of the election date.

Sec. 8808.158. FILING REQUIREMENT. Requires the board to file a copy of specific statements with TCEQ and in the deed records of Duval County by the 15th day after the election, if a proposed merger agreement is confirmed at an election under Section 8808.155.

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 TCEQ.

(c) Provides that TCEQ has filed its recommendations relating to this Act with the required entities and the allotted amount of time.

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

SECTION 3. Effective date: upon passage or September 1, 2005.

EFFECTIVE DATE

Upon passage or September 1, 2005.