

BILL ANALYSIS

S.B. 1848
By: Zaffirini
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

As proposed, S.B. 1848 creates a groundwater conservation district in Starr County, Texas, 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. DEFINITIONS. Defines "board" and "district."

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

SECTION 3. FINDINGS OF BENEFIT. (a) Provides that the district is created to serve a public use and benefit.

(b) Provides that the district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(c) Provides that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

SECTION 4. CONTINUING PROVISIONS OF DISTRICT. Amends Subtitle H, Title 6, Special District Local Laws Code, by adding Chapter 8803, as follows:

CHAPTER 8803. STARR COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8803.001. DEFINITIONS. Defines "board," "district," "municipally owned utility," "regional water authority," and "water supply or sewer service corporation."

Sec. 8803.002. NATURE OF DISTRICT. Provides that the district has certain characteristics.

Sec. 8803.003. DISTRICT BOUNDARIES. Provides that the boundaries of the district are coextensive with the boundaries of Starr County.

[Reserves Sections 8803.004-8803.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8803.051. BOARD. Provides that the board of directors (board) consists of five directors.

Sec. 8803.052. TERMS. Provides that directors serve staggered four-year terms.

Sec. 8803.053. 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, except as provided by Subsection (e), to be a registered voter in the district to be eligible to be a candidate for or to serve as director at large. Requires a person to be a registered voter of a county commissioners precinct to be eligible to be a candidate for or to serve as director from that precinct.

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

(e) Requires, when the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, 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. 8803.054. ELECTION DATE FOR DIRECTORS. Requires the district to hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001 (Uniform Election Dates), Election Code, in May of each even-numbered year.

[Reserves Sections 8803.055-8803.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8803.101. GENERAL POWERS AND DUTIES. Provides that the district has all the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36 (Groundwater Conservation Districts), Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8803.102. 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, a municipally owned utility, or a water supply or sewer service corporation.

Sec. 8803.103. POWER TO CONTRACT WITH MUNICIPALITIES. Authorizes the district to enter into a contract with a municipality to assume the functions of the municipality's municipally owned utility. Authorizes a contract under this section to include certain provisions relating to the district.

Sec. 8803.104. RELATION TO OTHER WATER-RELATED ENTITIES. (a) Provides that, to the extent that a rule of the district conflicts with a rule of the Rio Grande Regional Water Authority (regional water authority), the rule of the authority controls.

(b) Provides that, to the extent that a rule of the district conflicts with an action of a municipally owned utility or water supply or sewer service corporation whose

certificated area is located wholly or partly in the district's territory, the action of the utility or corporation 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 the regional water authority or with an action of a municipally owned utility or water supply or sewer service corporation whose certificated area is located wholly or partly in the district's territory, the rule of the district controls.

[Reserves Sections 8803.105-8803.150 for expansion]

SUBCHAPTER D. MERGER WITH WATER SUPPLY OR SEWER SERVICE CORPORATION

Sec. 8803.151. DEFINITIONS. Defines "commission" and "directors."

Sec. 8803.152. AUTHORITY FOR AGREEMENT FOR MERGER; PROVISIONS.

(a) Authorizes the district, subject to Sections 8803.153, 8803.154, and 8803.155, to enter into a merger agreement with a water supply or sewer service corporation.

(b) Requires the merger agreement to include certain provisions

Sec. 8803.153. BOARD, DIRECTORS, AND MEMBERS APPROVAL OF MERGER AGREEMENT. Requires each member of the corporation, before an election to confirm a proposed merger agreement described by Section 8803.152 may be held, the board, the directors, and, if the water supply or sewer service corporation has members with voting rights, to approve the proposed merger agreement in accordance with the laws, rules, charter, bylaws, and procedures applicable to the district and the corporation.

Sec. 8803.154. COMMISSION DETERMINATION OF DISTRICT CAPABILITY FOR SERVICE. Requires the Texas Commission on Environmental Quality (TCEQ), before an election to confirm a proposed merger agreement described by Section 8803.152 is authorized to be held, to determine that the district is capable of rendering adequate and continuous service as required by Section 13.251 (Sale, Assignment, or Lease of Certificate), Water Code.

Sec. 8803.155. ELECTION TO CONFIRM MERGER AGREEMENT. (a) Requires the board, before a proposed merger agreement described by Section 8803.152 is authorized to take effect, to hold an election to confirm the agreement.

(b) Requires the election to be held on the first authorized uniform election date after the board, the directors, and, if required, the members of the water supply or sewer service corporation approve the proposed merger agreement that allows sufficient time for the board to comply with all applicable provisions of the Election Code.

Sec. 8803.156. BALLOTS FOR ELECTION. Sets forth the required language for the ballot for an election under Section 8803.155.

Sec. 8803.157. ELECTION RESULTS FOR MERGER WITH WATER SUPPLY OR SEWER SERVICE CORPORATION. (a) Provides that, if a majority of the voters voting in an election under Section 8803.155 both in the certificated area of the water supply or sewer service corporation and in the territory of the district outside the certificated area vote in favor of the ballot proposition, the proposed merger agreement takes effect.

(b) Provides that certain results occur if a majority of the voters voting in an election under Section 8803.155 either in the certificated area of the water supply or sewer service corporation or in the territory of the district outside the certificated area do not vote in favor of the ballot proposition.

Sec. 8803.158. FILING REQUIREMENT. Requires the board, if a proposed merger agreement is confirmed at an election under Section 8803.155, to file with TCEQ and in the deed records of Starr County a copy of certain documents not later than the 15th day after the date of the election.

SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Requires certain appointments to be made not later than the 45th day after the effective date of this Act.

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

(c) Provides that temporary directors serve until temporary directors become initial directors as provided by Section 8 of this Act or this Act expires under Section 11, whichever occurs earlier.

SECTION 6. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Requires, as soon as practicable after all the temporary directors have qualified under Section 36.055 (Sworn Statement, Bond, and Oath of Office), Water Code, 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. Requires, the organizational meeting to be at the Starr County Courthouse if no location can be agreed upon.

SECTION 7. CONFIRMATION ELECTION. (a) Requires the temporary directors to hold an election to confirm the creation of the district.

(b) Provides that Section 41.001(a) (relating to dates for general and special elections), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Requires a confirmation election to be conducted as provided by Sections 36.017(b)-(i) (relating to the confirmation and directors' election for a district in a management area, Water Code, and the Election Code, except as provided by this section.

(d) Provides that, if the establishment of the district is not confirmed at an election held under this section before September 1, 2007, the district is dissolved, except for the continuance of certain aspects of the district.

SECTION 8. INITIAL DIRECTORS. Provides that if the creation of the district is confirmed at an election held under Section 7 of this Act, 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 9 of this Act.

SECTION 9. ELECTION OF PERMANENT DIRECTORS. (a) Provides that the initial directors for county precincts 2 and 3 serve until the first regularly scheduled election of directors under Subsection (b) of this section, and the initial directors for county precincts 1 and 4 and the initial director representing the district at large serve until the second regularly scheduled election of directors.

(b) Requires an election to be held in the district for the election of two directors to replace the initial directors for county precincts 2 and 3 on the uniform election date prescribed by Section 41.001, Election Code, in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election.

SECTION 10. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (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.

(c) Provides that TCEQ 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.

SECTION 11. CONTINGENT EXPIRATION DATE; DEBTS. (a) Provides that if the creation of the district is not confirmed at a confirmation election held under Section 7 of this Act before September 1, 2007, this Act expires on that date.

(b) Provides that the expiration of this Act does not affect the liability of the district to pay any debt incurred or the transfer of any assets remaining to Starr County as required by Section 7(d) of this Act.

SECTION 12. EFFECTIVE DATE. Effective date: upon passage or September 1, 2005.

EFFECTIVE DATE

Upon passage or September 1, 2005.