

BILL ANALYSIS

Senate Research Center
79R2202 SGA-F

S.B. 1896
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Intergovernmental Relations
5/10/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

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. As proposed, S.B. 1896 creates the Val Verde County Groundwater Conservation District, subject to approval at a confirmation election, to manage Val Verde's groundwater resources.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Val Verde County Groundwater Conservation District in SECTION 4 (Sections 8804.152, 8804.163, and 8804.202, Special District Local Laws Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. DEFINITIONS. Defines "board" and "district."

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

SECTION 3. FINDINGS OF BENEFIT. Sets forth the purposes and benefits of the district.

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

CHAPTER 8804. VAL VERDE COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8804.001. DEFINITIONS. Defines "agricultural use," "agriculture," "board," "director," "district," "domestic use," and "political subdivision."

Sec. 8804.002. NATURE OF DISTRICT. Provides that the district is a groundwater conservation district in Val Verde County created under Section 59 (Conservation and Development of Natural Resources and parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

Sec. 8804.003. DISTRICT PURPOSE. Sets forth the purposes of the district.

[Reserves Sections 8804.004-8804.050 for expansion.]

SUBCHAPTER B. TERRITORY

Sec. 8804.051. BOUNDARIES. Provides that the boundaries of the district are coextensive with the boundaries of Val Verde County, Texas.

[Reserves Sections 8804.052-8804.100 for expansion.]

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 8804.101. BOARD. Provides that the board of directors of the district (board) consists of seven directors.

Sec. 8804.102. 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 three directors 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 eligible to be a candidate for or to serve as director at large, to be a registered voter in the district. 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 make certain indications 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 from which elected or appointed even though the change in boundaries places the person's residence outside the precinct from which the person was elected or appointed.

Sec. 8804.103. 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 (Uniform Election Dates), Election Code, in November of each even-numbered year.

Sec. 8804.104. TERMS. (a) Provides that directors serve staggered four-year terms.

(b) Authorizes a director to serve for consecutive terms.

Sec. 8804.105. COMPENSATION. (a) Provides that a director is not entitled to receive fees of office for performing the duties of a director.

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

[Reserves Sections 8804.106-8804.150 for expansion.]

SUBCHAPTER D. POWERS AND DUTIES

Sec. 8804.151. POWERS AND DUTIES. Provides that except as otherwise provided by this chapter, the district has all of 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. 8804.152. PERMIT TO TRANSFER GROUNDWATER. (a) Requires the district by rule to require a person to obtain a permit from the district to transfer groundwater out of the district and regulate the terms of a transfer of groundwater out of the district.

(b) Sets forth certain requirements for rules developed under this section.

(c) Requires the district to use a groundwater availability model, and not historical use, as the basis for issuing permits.

(d) Provides that a permit issued under this section, except for a permit issued under Section 8804.153(a), does not establish historical use.

Sec. 8804.153. PERMITS FOR USE SOLELY INSIDE DISTRICT. (a) Requires the district to grant the City of Del Rio (city) a permit in the city's name 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. Requires the district to amend the city's permit to authorize the city to pump from all city wells a stated cumulative amount of not less than 20,000 acre-feet of water annually for use solely inside the district if the study performed under Section 8804.162 finds that sufficient groundwater is available. Provides that this subsection does not limit the city's right to apply for or obtain a permit to transfer groundwater under Section 8804.152.

(b) Requires the district to grant to a nonprofit rural water supply corporation, water district, or other political subdivision a permit that authorizes the water supply corporation, water district, or other political subdivision 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 before the date the district is confirmed at an election held for that purpose, for use solely inside the district.

Sec. 8804.154. AGRICULTURAL USE PERMIT. (a) Requires, except as provided by Section 8804.155, the district to grant any application for an agricultural use permit for any well that is used solely for agricultural use inside the district. Requires the district to issue an agricultural use permit in an amount that is not less than five acre-feet of water per acre actually cultivated per year. Provides that an agricultural use permit is nontransferable and expires on the date the well ceases to be used solely for agricultural use inside the district.

(b) Provides that this section does not limit the well owner's right to apply for or obtain a permit to transfer groundwater under Section 8804.152.

Sec. 8804.155. LIMITATION ON WELL PERMIT REQUIREMENTS. (a) Prohibits the district from requiring a person to obtain a permit from the district for certain purposes.

(b) Requires the district to require a permit for certain wells that cease to be used solely for agricultural use. Authorizes the district to impose a fee on the well in a certain manner.

(c) Requires an owner of a well described by this section to register the well with the district.

(d) Entitles a well owner to a permit exemption under this section only if water from the well is used solely inside the district. Requires the well owner to obtain a permit if water from a well is not used solely inside the district.

Sec. 8804.156. REPLACEMENT WELL. (a) Provides that 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 meets certain specifications.

(b) Prohibits the district from requiring a person who repairs or modifies a well to obtain a permit for certain wells.

Sec. 8804.157. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. Prohibits the district from purchasing, selling, transporting, or distributing surface water or groundwater for any purpose.

Sec. 8804.158. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

Sec. 8804.159. REGIONAL COOPERATION. Requires the district to take certain steps to provide for regional continuity.

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

Sec. 8804.161. TEXAS WATER DEVELOPMENT BOARD STUDY. Requires the staff of the Texas Water Development Board (TWDB), at least once every 10 years and at any other time the board considers necessary to implement certain rules, to make a complete study of the groundwater in the district and make certain determinations.

Sec. 8804.162. LOCAL STUDY OF GROUNDWATER AVAILABILITY. (a) Requires, except as provided by Subsection (b), not later than the 10th anniversary of the date on which the district is confirmed, the district to complete a study to determine whether there is sufficient groundwater to amend the permit granted under Section 8804.153(a) to the city as authorized by Section 8804.153(a).

(b) Authorizes the city, in place of the district's study, to perform a study of the groundwater availability in the district and provides that the board may rely on the city's study if the city's study meets the criteria of the TWDB study required by Section 8804.161.

Sec. 8804.163. MORATORIUM ON TRANSFER PERMITS. (a) Requires the district to 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 under Section 8804.161.

(b) Requires the district, except for the initial study, by rule to specify the length of the period set aside to conduct and consider groundwater studies under Section 8804.161.

(c) Prohibits the district from issuing a permit for the transfer of groundwater until certain conditions are met.

[Reserves Sections 8804.164-8804.200 for expansion.]

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 8804.201. LIMITATION ON TAXES. (a) Prohibits the district from levying ad valorem taxes at a rate that exceeds five cents on each \$100 of assessed valuation of taxable property in the district.

(b) Prohibits the district from levying ad valorem taxes at a rate that exceeds 2-1/2 cents on each \$100 of assessed valuation of taxable property in the district for the first two tax years after the district's confirmation.

(c) Requires the district, not later than the seventh anniversary of the date on which the district is confirmed, to maintain in reserve at all times not less than six months and not more than two years of operating capital. Sets certain requirements of the district's reserve operating capital at any time exceeds the amount needed to operate the district for two years.

Sec. 8804.202. FEES. (a) Authorizes the board by rule to impose reasonable fees on certain wells.

(b) Authorizes the production fee to be based on certain information.

(c) Requires the board to base the initial production fee on certain criteria. Prohibits the initial production fee from exceeding certain limits.

(d) Authorizes, in addition to the production fee authorized under this section, the district to assess an export fee on groundwater from a well that is produced for transport outside the district.

(e) Sets forth certain guidelines for fees authorized by this section.

Sec. 8804.203. EXEMPTION FROM FEES. (a) Prohibits the district, except as provided by Subsection (b), from imposing 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.

(b) Authorizes the district by emergency order of the board to impose a reasonable and temporary production fee on a well described by Subsection (a) under certain conditions.

SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Requires certain steps to be taken pertaining to the appointment of temporary directors not later than the 45th day after the effective date of this Act.

(b) Requires, of the temporary directors, at least one director to represent rural water suppliers in the district, one to represent agricultural interests in the district, one to represent industrial interests in the district, and one to represent municipal water suppliers.

(c) 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.

(d) 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 12, 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, 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, if no location can be agreed upon, the organizational meeting to be at the Val Verde County Courthouse.

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), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Requires, except as provided by this section, a confirmation election to be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code.

(d) Authorizes the district to hold a subsequent confirmation election if the previous confirmation election fails to pass. Prohibits a subsequent confirmation election from being held sooner than one year after the date of the previous confirmation election.

(e) Requires the confirmation election ballot to be printed to permit voting for or against the proposition. Sets forth specific language of proposition.

(f) Provides that if the establishment of the district is not confirmed at an election held under this section before September 1, 2010, the district is dissolved. Sets forth certain guidelines for the dissolution of the district.

SECTION 8. INITIAL DIRECTORS. Provides that if 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 serve until the first regularly scheduled election of directors under Subsection (b) of this section.

(b) Requires, on the uniform election date prescribed by Section 41.001, Election Code, in November of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election to be held in the district for the election of seven directors. Requires the elected directors to draw lots to determine which three directors are required to serve terms lasting until the first regularly scheduled election under Section 8804.103, Special District Local Laws Code, as added by this Act, and which four are required to serve until the second regularly scheduled directors election.

SECTION 10. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. 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. STUDY COMPLETION. Requires that not later than the 180th day after the date the district is confirmed at an election held for that purpose, the Texas Water Development Board complete the initial study required by Section 8804.161, Special District Local Laws Code, as added by this Act, and deliver the findings of the study to the board.

SECTION 12. EXPIRATION. (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, 2010, 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 Val Verde County as required by Section 7(f) of this Act.

SECTION 13. EFFECTIVE DATE. Effective date: upon passage or September 1, 2005.