

BILL ANALYSIS

C.S.H.B. 3776
By: Puente
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In January 2006, the South Central Regional Water Planning Group (Region L) failed to adopt and submit its 2006 Regional Water Plan by the statutory deadline established in Sec. 16.053 (i), Water Code. Under Sec. 16.053 of the Water Code, Region L was required to submit its adopted plan to the Texas Water Development Board (TWDB) for approval and incorporation into the 2007 State Water Plan. There are 16 regional water planning groups which develop plans on a five-year cycle. Region L reaches from the Gulf Coast to the Hill Country and includes all or parts of 21 counties, portions of nine river and coastal basins, the Guadalupe Estuary, and San Antonio Bay. The largest cities in the region are San Antonio, Victoria, San Marcos, and New Braunfels. Even though the Region L Board adopted its plan after the deadline, current statute gave no flexibility or discretion to Region L to submit an adopted plan after the deadline to the TWDB. Without the explicit authority for the TWDB to approve an adopted plan submitted by a planning group after the deadline, Region L was left without a legally adopted or approvable regional plan.

The ramification of missing the deadline is that any entity located in Region L seeking financial assistance for a water supply project from the TWDB or seeking a water rights permit from the Texas Commission on Environmental Quality (TCEQ) must now request a waiver under Texas Water Code, Sections 16.053 (j) and (k), and Sections 11.134 (b) and (c), which require projects to be consistent with an approved regional water plan. Lack of an approved regional water plan could delay numerous important water projects designed to meet the needs of a growing population.

C.S.H.B. 3776 is narrowly drafted to allow the TWDB to approve a regional water plan that was not adopted by the regional planning group and submitted to the TWDB by the statutory deadline of January 5, 2006, i.e. the Region L plan. It is not applicable to any other situation except the current one involving Region L and only for the 5 year period beginning January 5, 2007. With certain stipulations, C.S.H.B. 3776 would allow the TWDB to approve the plan submitted after the statutory deadline, which would preclude the need for a waiver from TWDB or TCEQ for financial assistance for water supply projects and surface water right permits.

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. Notwithstanding Section 16.053 (i), Water Code, and except as otherwise provided by this Act, the Texas Water Development Board may approve and include in the state water plan for the five-year period beginning January 5, 2007, the regional water plan that was submitted to the board by the Region L regional water planning group.

(b) Authorizes the Texas Water Development Board to approve the regional water plan for Region L only if the board:

(1) strikes Sections 4C.7, 4C.8 and 4C.32 from the plan as submitted to the board; and

(2) includes Sections 4C.33 in the plan as the Lower Guadalupe Water Supply Project for Upstream GBRA Needs so as to:

(A) require that the project be developed by the regional water planning group for Region L in association with the Guadalupe-Blanco River Authority;

(B) include a transmission pipeline for the diversion of up to 60,000 acre-feet per year of surface water available under the water rights held by the Guadalupe-Blanco River Authority as of December 31, 2006 from the Guadalupe River below the city of Victoria to upstream points on the river to meet needs identified by the Region L regional water planning group; provided, however, that at least 100,000 acre-feet per year of the surface water must be reserved for lower basin needs;

(C) prohibit the use of fresh groundwater for the project;

(D) require the consent of the appropriate property owner before off-channel storage or an off-channel reservoir may be developed as part of the project; and

(E) require freshwater inflows in an amount sufficient to meet the Parks and Wildlife Department, Texas Commission on Environmental Quality, and Texas Water Development Board's environmental consensus criteria for San Antonio Bay to be identified and included in the project.

(c) Requires the Texas Water Development Board to amend the state water plan for the five-year period beginning January 5, 2007, as necessary to conform to the requirements of this Act.

SECTION 2. Effective Date: Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute alters Section 1 of the bill by providing that notwithstanding Section 16.053(i), Water Code, and except as otherwise provided by this Act, the Texas Water Development Board may approve and include in the state water plan for the five-year period beginning January 5, 2007, the regional water plan that was submitted to the board by the Region L regional water planning group. The introduced version did not include the language "except as otherwise provided by this Act" or reference inclusion in the state water plan. The introduced version also referenced a regional water plan submitted to the board after the deadline prescribed by that subsection if the regional water plan was approved by the applicable regional water planning group not later than January 19, 2006, for submission to the board, meeting the other requirements of Section 16.053, Water Code. Unlike the introduced version, the substitute makes specific reference to the regional water plan submitted to the board by the Region L regional water planning group.

The substitute also adds Subsection (b) to Section 1 of the bill authorizing the Texas Water Development Board to approve the regional water plan for Region L only if certain deletions and additions are made to the plan by the Texas Water Development Board.

The substitute adds Subsection (c) requiring the Texas Water Development Board to amend the state water plan for the five-year period beginning January 5, 2007, as necessary to conform to the requirements of this Act.