

## **BILL ANALYSIS**

C.S.H.B. 4088  
By: Rose  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Plum Creek Conservation District (District) was created by the legislature in 1957 for flood control. It was amended on January 1st, 1989 to add groundwater responsibilities and approved by the District voters on May 1st 1993. The District is governed by a board appointed by the Caldwell and Hays County Commissioners.

Currently, the territory of the District includes portions of Caldwell and Hays counties. In recent years, growth along the I-35 corridor has created a cause of concern for local land owners in Caldwell County. With the high demand for water across the state, residents of this water-rich area are concerned that the land located on the Carrizo-Wilcox aquifer is not included in the boundaries of the district.

CSHB 4088 expands the territory of the district to include all of the remaining territory in Caldwell County and sets forth the process for the election and appointment of the board of directors. CSHB 4088 also grants additional authorities to the district and requires a ratification election by the voters.

### **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 Chapter 126, Acts of the 55th Legislature, Regular Session, 1957 by adding Sections 10A, 10B, and 10C as follows:

Sec. 10A. Amends the laws governing the district boundaries, board of directors, powers, and taxation authority of the Plum Creek Conservation District (District) and provides that the changes are subject to ratification by the voters of the district at an election held for this purpose.

Establishes that in addition to the portions of Caldwell and Hays Counties included in the boundaries of the district on August 31, 2007, the boundaries of the district include all the remaining territory in Caldwell County.

Establishes that the district is governed by a board of seven directors elected or appointed.

Requires the commissioners' courts of Caldwell and Hays Counties, not later than September 10, 2007, to appoint seven temporary directors of the district to serve terms that expire January 1, 2009.

Requires the Commissioners Court of Caldwell County to appoint one temporary director to represent the entire part of the county that is in the district as enlarged and four temporary directors, with each director representing one of the four county commissioners' precincts to the extent the precinct is in the district as enlarged.

Requires the Commissioners Court of Hays County to appoint one temporary director to represent the part of the district that is in the city of Kyle; and one temporary director to represent the part of the district that is in Hays County but not in the city of Kyle.

Requires that a temporary director reside in the area the director is appointed to represent.

Requires the district to adopt rules regarding remedies the district may impose to mitigate damages if a permitted well's production of groundwater unreasonably affects another owner's well and outlines matters that the rules may address.

Prohibits the district from imposing an ad valorem tax for flood control purposes at a rate that exceeds \$0.017 per \$100 of valuation of taxable property in the district.

Sec. 10B. Requires that the temporary directors order an election in the district as enlarged by Section 10A(c) of the Act on the uniform election date in November 2007 to ratify the following proposition:

- (1) the enlargement of the district as provided;
- (2) the governance of the district by a board consisting of seven directors, with six directors elected from single-member voting districts and one director appointed by the Commissioners Court of Caldwell County;
- (3) the duty of the district to adopt rules to provide for the mitigation of damages to certain well owners; and
- (4) the limitation on the rate of ad valorem taxation for flood control purposes.

Requires that the proposition must be approved by a majority of the voters voting at the election and the ballot for the election must read as follows:

"By voting YES on this ballot, you are voting in favor of all four of the following propositions with regard to the territory, directors, and powers of the Plum Creek Conservation District:

- (1) the enlargement of the Plum Creek Conservation District to include that part of Caldwell County not already in the district;
- (2) the governance of the Plum Creek Conservation District by a board consisting of seven directors, with six directors elected from single-member voting districts and one director appointed by the Commissioners Court of Caldwell County;
- (3) the duty of the Plum Creek Conservation District to adopt rules to provide for the mitigation of damages to certain well owners whose groundwater production has been unreasonably affected by the export of groundwater from another well in the district; and
- (4) the limitation of the Plum Creek Conservation District's rate of ad valorem taxation for flood control purposes to a rate not to exceed \$0.017 per \$100 of valuation of taxable property in the district.

By voting NO on this ballot, you are voting against all four of the propositions listed above."

Establishes that if a majority of the voters approve the ballot proposition:

The proposition is ratified and the boundaries of the district are enlarged. A copy of the metes and bounds description of the enlarged district must be filed with the Texas Commission on Environmental Quality and in the deed records of Caldwell and Hays Counties. The enlarged boundaries supersede the description of the boundaries contained in Section 3, Chapter 126, Acts of the 55th Legislature, Regular Session, 1957.

Requires the temporary board, in conjunction with the Commissioners Court of Hays County, the Commissioners Court of Caldwell County, the secretary of state, and the United States Department of Justice, to divide the district into six single-member voting districts with four single-member voting districts in Caldwell County and two single-member voting districts in Hays County. Requires the boundaries of the single-

member districts to be established in time to apply to an election of directors on the uniform election date in November 2008.

Requires the board elected to adopt rules taking effect not later than June 1, 2009 that provide for the mitigation of damages to certain well owners.

Establishes that the limitation on the rate of ad valorem taxation for flood control purposes takes effect January 1, 2008.

Establishes that each provision listed in this section supersedes Chapter 126, Acts of the 55th Legislature, Regular Session, 1957, as that chapter existed before the effective date of the Act enacting this section, to the extent of any conflict or inconsistency.

Sec. 10C. Provides that an election of directors is subject to a majority of the voters approving such an election as described in the ballot proposition under Section 10B of the Act and sets forth the process for an election of directors. Provides the term for the director appointed by the Caldwell County Commissioners Court.

SECTION 2. The terms of the members of the Plum Creek Conservation District board of directors serving on the effective date of the Act expire when a majority of the temporary directors appointed under Section 10A(e), Chapter 126, Acts of the 55th Legislature, Regular Session, 1957, as added by the Act, have qualified to serve.

SECTION 3. Provides that if the ballot proposition under Section 10B, Chapter 126, Acts of the 55th Legislature, Regular Session, 1957, as added by the Act, is not approved by a majority of the voters:

- (1) notwithstanding Section 10A(e), Chapter 126, Acts of the 55th Legislature, Regular Session, 1957, as added by this Act, the temporary directors appointed under that section continue to serve until the commissioners courts of Hays and Caldwell Counties appoint six directors in the manner provided by Section 4, Chapter 126, Acts of the 55th Legislature, Regular Session, 1957;
- (2) Sections 10A(c), (d), (i), and (j), Chapter 126, Acts of the 55th Legislature, Regular Session, 1957, as added by the Act, do not take effect; and
- (3) Sections 10A, 10B, and 10C, Chapter 126, Acts of the 55th Legislature, Regular Session, 1957, as added by the Act, expire September 1, 2009.

SECTION 4. Includes provisions relating to notice required by the Texas Constitution, laws of this state and rules and procedures of the legislature; confirming all such acts fulfilled.

SECTION 5: 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 removes the provision in the original that excluded from the district boundaries, the part of the district that lies within the boundaries of the Edwards Aquifer Authority. The substitute removes the provision in the original that requires the district to adopt rules prohibiting the export of groundwater from the district except to supply public drinking water in Blanco, Caldwell, or Hays County. The substitute modifies the original by requiring the governance of the district by a board consisting of seven directors, with six directors elected from single-member voting districts and one director appointed by the Commissioners Court of Caldwell County. The substitute clarifies that a director holding an elective position must reside in the area

the director is elected or appointed to represent. The substitute enumerates the bill appropriately and makes conforming changes.