

## **BILL ANALYSIS**

Senate Research Center  
81R9739 PMO-D

H.B. 1923  
By: Heflin (Duncan)  
Natural Resources  
4/30/2009  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the board of directors of the Irion County Water Conservation District (district) have an election cycle that is not aligned with the uniform election date and the directors only serve two-year terms of office.

H.B. 1923 amends the enabling statute of the district to change the terms of the directors from two years to four years; provide that the terms are staggered terms; and change the board of director's election to the uniform election date in May. This bill also changes sections to correspond to and in accordance with Chapter 36 (Groundwater Conservation Districts), Water Code, and adds language that addresses annexation of or consolidation with territory of another district.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the board of directors of the Irion County Water Conservation District (district) is rescinded in SECTION 7 (Section 23, Chapter 65, Acts of the 69th Legislature, Regular Session, 1985) of this bill.

Rulemaking authority previously granted to the board of directors of the district is modified in SECTION 8 (Section 30, Chapter 65, Acts of the 69th Legislature, Regular Session, 1985) of this bill.

Rulemaking authority is expressly granted to the board of directors of the district in SECTION 8 (Section 30, Chapter 65, Acts of the 69th Legislature, Regular Session, 1985) of this bill of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 4, Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, to provide that the Irion County Water Conservation District (district) is composed of all the territory within Irion County and any territory added through annexation or consolidation.

SECTION 2. Amends Section 8, Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, by adding Subsection (c), to require that the composition of the board of directors of the district, if the district annexes territory or consolidates with another district, be determined in a manner that is equitable for the residents of the district as provided by Chapter 36 (Groundwater Conservation Districts), Water Code, and otherwise in compliance with Subchapter K (Consolidation of Districts), Chapter 36, Water Code.

SECTION 3. Amends Section 9(b), Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, to require a person who is a director from a county commissioners precinct, in addition to the requirements of Subsection (a) (relating to the requirement that a person being a resident of the district and at least 18 years of age), to be a resident of that precinct unless the composition of the board of directors changes under Section 8(c) of this Act.

SECTION 4. Amends Sections 10-12 and 15, Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, as follows:

Sec. 10. ELECTION OF DIRECTORS. Requires that an election, beginning in the year following the creation election, be held on the uniform election date in May, rather than

the first Saturday in April of each year, to elect the appropriate number of directors to the board.

Sec. 11. TERM OF OFFICE. Requires directors, except for the initial directors of the district, to serve for terms of four years, rather than two years.

Sec. 12. BEGINNING OF DIRECTOR'S TERM. Provides that a director takes office at the first regular meeting of the board, rather than the first meeting of the board in April, following election to the board.

Sec. 15. COMPENSATION. Entitles each director to receive fees of office as provided by Chapter 36, Water Code, for each day engaged in the director's duties for the district, rather than for his services not more than \$25 a day for each day actually engaged in duties for the district.

SECTION 5. Amends Section 18(a), Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, to authorize, rather than require, the board to appoint persons to serve as treasurer and attorney for the district.

SECTION 6. Amends Section 19(b), Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, to authorize, rather than require, the general manager to execute a bond in the amount determined by the board, payable to the district, and conditioned on the faithful performance of the general manager's duties.

SECTION 7. Amends Sections 23, 25, 28, and 29, Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, as follows:

Sec. 23. MEETINGS OF THE BOARD. Requires the board to hold regular meetings at the district's office on dates established by the board, rather than at the district's office at least once each month on a date established by rule of the board.

Sec. 25. CONTRACTS. Authorizes the board to enter into contracts as provided by Chapter 36, rather than Chapter 51 (Water Control and Improvement Districts), Water Code, and those contracts are required to be executed by the board in the name of the district.

Sec. 28. New heading: NAME CHANGE. Authorizes the name of the district to be changed if additional territory is annexed to the district or the district consolidates with another district. Deletes existing text requiring the board to adopt a seal for the district.

Sec. 29. PURPOSE OF DISTRICT. Provides that the district is created to provide for the conservation, preservation, protection, recharge, and prevention of waste and pollution of the groundwater, rather than underground, and surface water of the district consistent with the objectives of Article XVI (General Provisions), Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), of the Texas Constitution, and Chapter 36, Water Code, and the powers and duties under Subchapters H (Powers and Duties) and I (Construction, Equipment, Materials, and Machinery Contracts), Chapter 49 (Provisions Applicable to all Districts), Water Code, rather than Chapters 51 and 52 (Underground Water Conservation Districts), Water Code.

SECTION 8. Amends Section 30(b), Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, as follows:

(b) Authorizes the board, in addition to the rules adopted under Subsection (a) (relating to rules necessary to carry out the purposes and powers under this Act) of this section, to adopt and enforce rules as provided by Chapter 36, rather than Sections 51.127 (Adopting Rules and Regulations), 51.128 (Effect of Rules and Regulations), 51.129 (Publication of Rules and Regulations), 51.130 (Effective Date of Rules and Regulations), 51.131, and 51.132 (relating to penalties for violation of regulation and enforcement by peace officers [*repealed*]), as amended, Water Code. Authorizes the board to adopt rules necessary for

the exercise of district powers and duties under Subchapters H and I, Chapter 49, Water Code.

SECTION 9. Amends Sections 31-35, Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, as follows:

Sec. 31. EXERCISE OF POWERS AND DUTIES UNDER WATER CODE. Authorizes the district, except to the extent of the any conflict with this Act or as specifically limited by this Act, to exercise the powers granted and is required to exercise the duties under Chapter 36 and Subchapters H and I, Chapter 49, Water Code, rather than Subchapters D (Powers and Duties), O (Adding and Excluding Territory and Consolidating Districts), and P (Dissolution of District), Chapter 51, Water Code, and Subchapter D, Chapter 52, Water Code, to carry out the purpose of the district and this Act.

Sec. 32. LIMITATION ON PERMIT AUTHORITY. Prohibits the board, if the district regulates production of groundwater by permit as authorized under Chapter 36, Water Code, from denying a permit to drill a well to the owner of land, his heirs, assigns, and lessees on his land that complies with the rules adopted by the district, rather than and the right to produce water from the well under rules adopted by the district. Makes conforming changes.

Sec. 33. STUDIES AND SURVEYS. Authorizes, rather than requires, the board to have professional engineers make studies and surveys of the groundwater and surface water supplies within the district and certain facilities. Authorizes, rather than requires, the professional engineers to also determine the quantities of both groundwater and surface water available in the district. Makes conforming changes.

Sec. 34. PLANS AND SPECIFICATIONS. Makes a conforming change.

Sec. 35. RESEARCH; INFORMATION. Authorizes the district to engage in research projects and develop information, rather than requires the district to engage in research projects and to develop information, to be used by the district in preparing and implementing its plans and in carrying out its powers and duties under this Act.

SECTION 10. Amends Section 39(b), Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, to authorize the district to construct and acquire works, facilities, and improvements in the manner provided by Subchapters H and I, Chapter 49, Water Code, rather than as provided by Chapter 51, Water Code, for water control and improvement districts.

SECTION 11. Amends Sections 43 and 45, Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, as follows:

Sec. 43. SALE AND DISPOSAL OF PROPERTY. Authorizes the district, subject to this Act and Chapter 36 and Subchapters H and I, Chapter 49, rather than Chapters 51 and 52, Water Code, to sell or otherwise dispose of land and other property of the district that is not necessary to carry out the purpose or powers of the district as determined by the board.

Sec. 45. PROTECTION OF WATER RIGHTS. Makes a conforming change.

SECTION 12. Repealer: Section 53 (Sworn Statement), Chapter 65, Acts of the 69th Legislature, Regular Session, 1985.

SECTION 13. Requires a director of the district whose term expires in May 2009, to serve a term that expires on the uniform election date in May 2012. Requires a director elected to replace a director whose term expires in May 2010, to serve a four-year term as provided by Section 11 (Term of Office), Chapter 65, Acts of the 69th Legislature, Regular Session, 1985, as amended by this Act. Provides that Section 11, as amended, applies to any regularly scheduled election of directors held in 2012 or a later year.

SECTION 14. 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 15. Effective date: upon passage or September 1, 2009.