

BILL ANALYSIS

C.S.H.B. 4792
By: Callegari
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The West Harris County Regional Water Authority was created by the legislature in 2001 to deliver surface water to users within its boundaries to facilitate users' compliance with Harris-Galveston Subsidence District regulations requiring conversion from groundwater use to surface water use. These regulations were adopted by the district because the water table in the Harris-Galveston county area had dropped significantly due to excessive groundwater pumpage, resulting in the problem of subsidence. There are over 120 water districts and one city within the boundaries of the authority.

As part of its function, the authority charges surface water or groundwater pumpage fees to public and private entities within its boundaries. These fees help finance the water infrastructure needed to implement the surface water conversion required by the district.

C.S.H.B. 4792 authorizes the West Harris County Regional Water Authority to bring an action against a district, other political subdivision, or other person located in the authority's territory or included in the authority's groundwater reduction plan to recover certain damages or enforce an authority rule or order, and specifies that certain immunity granted to such an entity is waived for the purposes of such an action. The bill also clarifies that the authority is not governed by provisions applicable to a groundwater conservation district.

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

C.S.H.B. 4792 amends Section 4.01(d), Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, to specify that general provisions for groundwater conservation districts and a provision relating to the disqualification of district directors do not apply to the West Harris County Regional Water Authority.

C.S.H.B. 4792 amends Section 4.07, Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, to authorize the West Harris County Regional Water Authority to bring an action in a district court against a district, other political subdivision, or other person located in the authority's territory or included in the authority's groundwater reduction plan to recover any fees, rates, charges, assessments, collection expenses, attorney's fees, interest, penalties, or administrative penalties due the authority, or to enforce the authority's rules or orders. The bill establishes that the governmental immunity from suit or liability of a district or political subdivision is waived for the purposes of such an action.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4792 adds a provision not in the original specifying that a statutory provision relating to the disqualification of district directors does not apply to the West Harris County Regional Water Authority.

C.S.H.B. 4792 adds a provision not in the original to specify that an action brought by the authority is brought in a district court. The substitute specifies that the entities against whom the authority is authorized to bring action are located in the authority's territory, rather than included in the authority's jurisdiction as in the original, and specifies that the authority is authorized to bring an action against a political subdivision, rather than a local government as in the original.

C.S.H.B. 4792 adds a provision not in the original authorizing the authority to bring action to recover rates, and differs from the original by authorizing the authority to recover penalties or administrative penalties, whereas the original authorizes the authority to recover civil or other penalties.

C.S.H.B. 4792 differs from the original by authorizing the authority to bring action to enforce the authority's rules or orders, whereas the original authorizes the authority to bring an action to recover any amount spent by the authority to enforce such rules or orders.

C.S.H.B. 4792 removes a provision in the original waiving the sovereign immunity of a district or other local government from suit and liability for the purposes of adjudicating an action.

C.S.H.B. 4792 removes a provision in the original specifying that the authority's enacting legislation does not prevail over or preempt a provision of law relating to the Harris-Galveston Subsidence District or the Fort Bend Subsidence District or certain provisions of the Water Code being implemented by a subsidence district.