

BILL ANALYSIS

S.B. 726
By: Eltife
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Constitution authorizes the creation of groundwater conservation districts to manage and conserve groundwater.

S.B. 726 provides for the creation of the Harrison County Groundwater Conservation District and provides authority to impose a tax and issue bonds.

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 Subtitle H, Title 6, Special District Local Laws Code, by adding Chapter 8850, as follows:

CHAPTER 8850. HARRISON COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8850.001. DEFINITIONS. Defines "Board," "Director," and "District."

Sec. 8850.002. NATURE OF DISTRICT. Provides that the Harrison County Groundwater Conservation District (district) is created under and essential to accomplish the purposes of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation), Article XVI, Texas Constitution.

Sec. 8850.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 8850.023 before December 31, 2010:

(1) the district is dissolved December 31, 2010, except that any debts incurred are required to be paid, any assets that remain after the payment of debts are required to be transferred to Harrison County, and the organization of the district is required to be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2014.

Sec. 8850.004. INITIAL DISTRICT TERRITORY. Provides that the initial boundaries of the district are coextensive with the boundaries of Harrison County, Texas.

Sec. 8850.005. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) Requires that the district boundaries, on September 1, 2013, include at least one county adjacent to Harrison County.

(b) Requires the Texas Commission on Environmental Quality ("TCEQ"), as soon as practicable after September 1, 2013, to determine whether the district complies with Subsection (a).

(c) Requires TCEQ, if it determines that the district does not comply with Subsection (a), to dissolve the district in accordance with Sections 36.304 (Dissolution of District), 36.305 (Notice of Hearing for Dissolution of Board or District), 36.307 (Order of Dissolution of Board), 36.308 (Certified Copy of Order), 36.309 (Appeals), and 36.310 (Assets Escheat), Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a) (relating to TCEQ dissolving a district), Water Code.

(d) Provides that this section expires September 1, 2015.

Sec. 8850.006. **APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW.** Provides that, except as otherwise provided by this chapter, Chapter 36 (Groundwater Conservation Districts), Water Code, applies to the district.

[Reserves Sections 8850.007-8850.020 for expansion.]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8850.021. **APPOINTMENT OF TEMPORARY DIRECTORS.** (a) Requires that five temporary directors be appointed, not later than the 45th day after the effective date of the Act enacting this chapter, as follows:

(1) requires the Harrison County Commissioners Court to appoint four temporary directors, with one of the temporary directors appointed from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and

(2) requires the county judge of Harrison County to appoint one temporary director who resides in the district to represent the district at large.

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

(c) Requires the Harrison County Commissioners Court to appoint a person to fill a vacancy in a manner that meets the representational requirements of this section if there is a vacancy on the temporary board of directors of the district.

(d) Provides that temporary directors serve until the earlier of the date initial directors are elected under Section 8850.023 or the fourth anniversary of the effective date of the Act creating this chapter.

(e) Requires successor temporary directors to be appointed in the manner provided by Subsections (a) and (b) to serve terms that expire on the date this subchapter expires under Section 8850.026 if initial directors have not been elected under Section 8850.023 and the terms of the temporary directors have expired.

Sec. 8850.022. **ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS.** Requires a majority of the temporary directors, as soon as practicable after all the temporary directors have qualified under Section 36.055 (Sworn Statement, Bond, and Oath of Office), Water Code, to convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. Requires that the organizational meeting be held at the Harrison County Courthouse if an agreement on location cannot be reached.

Sec. 8850.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) Requires the temporary directors to hold an election to confirm the creation of the district and to elect the initial directors of the district.

(b) Requires the temporary directors to have placed on the ballot the names of all candidates for an initial director's position who have filed an application for a place on the ballot as provided by Section 52.003 (Placing Candidate's Name on Ballot), Election Code.

(c) Requires that the ballot be printed to provide for voting for or against the proposition: "The creation of the Harrison County Groundwater Conservation District."

(d) Requires that, if the district levies a maintenance tax for payment of expenses, the ballot be printed to provide for voting for or against the proposition: "The levy of a maintenance tax at a rate not to exceed 1.5 cents for each \$100 of assessed valuation."

(e) Provides that Section 41.001(a) (regarding uniform election dates), Election Code, does not apply to an election held under this section.

(f) Requires that an election under this section be conducted as provided by Sections 36.017(b) (regarding polling places), (c) (regarding notice of the election), (d) (regarding language of ballot), (e) (regarding election returns), (f) (regarding favorable vote), (g) (regarding unfavorable vote), (h) (regarding district authority), and (i) (regarding unfavorable vote for maintenance tax), Water Code, and the Election Code, except as provided by this section. Provides that the provision of Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to an election under this section.

Sec. 8850.024. INITIAL DIRECTORS. (a) Requires that the directors elected take office as initial directors of the district and serve on the board of directors until permanent directors are elected under Section 8850.025 or 8850.053 if creation of the district is confirmed at an election held under Section 8850.023.

(b) Requires the four initial directors representing the commissioners precincts to draw lots to determine which two are required to serve a term expiring June 1 following the first regularly scheduled election of directors under Section 8850.025, and which two are required to serve a term expiring June 1 following the second regularly scheduled election of directors. Requires the at-large director to serve a term expiring June 1 following the second regularly scheduled election of directors.

Sec. 8850.025. INITIAL ELECTION OF PERMANENT DIRECTORS. Requires that an election be held in the district for the election of two directors to replace the initial directors who, under Section 8850.024(b), serve a term expiring June 1 following that election on the uniform election date prescribed by Section 41.001, Election Code, in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election.

Sec. 8850.026. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2014.

[Reserves Sections 8850.027-8850.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8850.051. DIRECTORS; TERMS. (a) Provides that the district is governed by a board of five directors.

(b) Provides that directors serve staggered four-year terms, with two or three directors' terms expiring June 1 of each even-numbered year.

(c) Authorizes a director to serve consecutive terms.

Sec. 8850.052. 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 that one director be elected by the voters of the entire district, and one director be elected from each county commissioners precinct by the voters of that precinct.

(c) Requires a person to be a registered voter in the district to be eligible to be a candidate for or to serve as director at large, except as provided by Subsection (e). Requires a person to be a registered voter of that precinct to be candidate for or to serve as director from a county commissioners precinct.

(d) Requires a person to indicate on the application for a place on the ballot the precinct that the person seeks to represent or that the person seeks to represent the district at large.

(e) Requires 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, when the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, to serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

Sec. 8850.053. ELECTION DATE. Requires that the district hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in May of each even-numbered year.

Sec. 8850.054. COMPENSATION. (a) Provides that Sections 36.060(a) (regarding a director's compensation), (b) (regarding reimbursement of expenses), and (d) (regarding prevailing of Subsection (a) over any other law), Water Code, do not apply to the district.

(b) Entitles a director to receive compensation of not more than \$50 a day for each day the director actually spends performing the duties of a director. Prohibits compensation from exceeding \$3,000 a year.

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

Sec. 8850.055. BOARD ACTION. Requires a majority vote of a quorum for board action. Provides that if there is a tie vote, the proposed action fails.

[Reserves Sections 8850.056-8850.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8850.101. GENERAL POWERS. Provides that the district has all of the rights, powers, privileges, functions, and duties provided by the general law of this state applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution, except as otherwise provided by this chapter.

Sec. 8850.102. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. Prohibits a district from purchasing, selling, transporting, or distributing surface water or groundwater for any purpose.

Sec. 8850.103. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 8850.104-8850.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8850.151. LIMITATION ON TAXES. Prohibits the district from imposing ad valorem taxes at a rate that exceeds 1.5 cents on each \$100 valuation of taxable property in the district.

Sec. 8850.152. FEES. (a) Authorizes the board by rule to impose reasonable fees on each well for which a permit is issued by the district and that is not exempt from district regulation.

(b) Authorizes a production fee to be based on the size of column pipe used by the well or the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) Requires the board to base the initial production fee on the criteria listed in Subsection (b)(2). Prohibits the initial production fee from exceeding 25 cents per acre-foot for water used for agricultural irrigation or 4.25 cents per thousand gallons for water used for any other purpose and authorizes the initial production fee to be increased at a cumulative rate not to exceed three percent per year.

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

(e) Authorizes fees authorized by this section to be assessed annually, used to pay the cost of district operations, and used for any other purpose allowed under Chapter 36, (Groundwater Conservation Districts), Water Code.

Sec. 8850.153. LIMITATION ON INDEBTEDNESS. Authorizes the district to issue bonds and notes under Subchapter F (Bonds and Notes), Chapter 36, Water Code, except that the total indebtedness created by that issuance is prohibited from exceeding \$500,000 at any time.

SECTION 2. (a) Provides that the legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313 (Notice for Local and Special Laws), Government Code.

(b) Provides that the governor has submitted the notice and Act to the Texas Commission on Environmental Quality (TCEQ).

(c) Provides that TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) 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 3. Provides the effective date of the Act.

EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.