

BILL ANALYSIS

S.B. 1386
By: Seliger
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Many areas of the state are producing significant amounts of groundwater without proper oversight and regulation by an existing groundwater conservation district ("GCD"). Consequently, the Texas Commission on Environmental Quality ("TCEQ") projects future groundwater production using a 25-year horizon to determine areas where oversight and regulation may be needed. Areas identified by TCEQ for potential oversight and regulation are designated as priority groundwater management areas ("PGMA"). Extending the horizon to 50 years would allow for more comprehensive projections and correspond to current statewide planning processes, such as the State Water Plan.

The passage of S.B. 1 in the 75th Legislature, Regular Session, 1997, changed the term "critical areas" to "priority groundwater management areas" and authorized TCEQ to implement the PGMA process. This bill would validate actions to date by TCEQ pertaining to PGMAs and clarify that PGMA rules currently in place apply to the "critical areas" as they were termed prior to 1997.

S.B. 1386 increases the current period for possible PGMA designation from 25 years to 50 years. S.B. 1386 authorizes TCEQ to adopt rules regarding the creation of a district over all or part of a PGMA that was designated as a critical area and the addition of all or part of a PGMA to an existing district. This bill also validates actions to date by TCEQ relating to the creation of a GCD over all or part of a PGMA that was designated as a critical area under prior law.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

It is the Committee's opinion that rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in SECTION 2 (Section 35.008, Water Code) of this bill.

ANALYSIS

SECTION 1. Amends Section 35.007(a), Water Code, to require the executive director of the Texas Natural Resource Conservation Commission ("TNRCC") and the executive administrator of the Texas Water Development Board ("TWDB"), based on information gathered by TNRCC and TWDB, to meet periodically to identify those areas of the state that are experiencing or that are expected to experience, within the immediately following 50-year period, rather than 25-year period, critical groundwater problems, including shortages of surface water or groundwater, land subsidence resulting from groundwater withdrawal, and contamination of groundwater supplies.

SECTION 2. Amends Section 35.008, Water Code, by adding Subsection (j), to authorize TNRCC to adopt rules regarding the creation of a district over all or part of a PGMA that was designated as a critical area under Chapter 35 (Groundwater Studies), Water Code, as that chapter existed before September 1, 1997, or under prior law, and the addition of all or part of the land in a PGMA to an existing district.

SECTION 3. Provides that all governmental acts and proceedings, including the adoption of rules, of the TCEQ relating to the creation of a groundwater conservation district over all or part

of a PGMA that was designated as a critical area under Chapter 35, Water Code, as that chapter existed before September 1, 1997, or under other prior law, are validated in all respects as of the dates on which they occurred.

SECTION 4. Makes application of Section 35.007(a), Water Code, as amended by this Act prospective.

SECTION 5. Provides the effective date of this 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.