

BILL ANALYSIS

C.S.H.B. 1547
By: Larson
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

To some parties interested in groundwater management areas, the definition of a desired future condition, criteria for establishing a desired future condition, and the authority of the Texas Water Development Board (TWDB) regarding desired future conditions are unclear. Considering the impact that the establishment of desired future conditions will have on the management of groundwater by groundwater conservation districts, and the availability of groundwater under the state water plan, a clear definition and clear criteria are needed.

C.S.H.B. 1547 intends to provide clarity by amending certain provisions relating to desired future conditions.

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 Section 16.053 (e), Water Code, by striking “managed” and replacing it with “modeled.”

SECTION 2. Amends Sections 36.001, Water Code, by amending Subdivisions (24) and (25) and adding Subdivision (30), as follows:

Subdivision (24) Replaces the term “Total aquifer storage” with “Total estimated recoverable storage.”

Subdivision (25) Replaces the term “Managed available groundwater” with “Modeled available groundwater.” Redefines “Modeled available groundwater” as the amount of water that the executive administrator of the TWDB determines may be produced on an average annual basis to achieve a desired future condition established under Sec. 36.108.

Subdivision (30) Provides a definition for “Desired future condition” as a quantitative description of the desired future condition of the groundwater resources in a groundwater management area at a specified time in the future.

SECTION 3. Amends Section 36.1071 (e), Water Code, by requiring a groundwater conservation district to include in a management plan estimates of the amount of modeled available groundwater in the district based on groundwater availability modeling information and site-specific information and on the established desired future condition.

SECTION 4. Amends Section 36.108, Water Code, by amending Subsections (d), (d-1), (d-2), and (o) and adding Subsections (d-3), (d-4), (d-5), and (d-6) as follows:

Subsection (d) Requires established desired future conditions to be for a period consistent with the established planning cycles of the state water plan. Requires groundwater conservation districts, in establishing the desired future conditions of aquifers, to consider the following: aquifer uses or conditions within the management area, including uses or conditions that differ substantially from one geographic area to

another, rather than considering only those differing uses or conditions; the water supply needs and water management strategies included in the state water plan; whether the desired future conditions are physically possible; socioeconomic impacts reasonably expected; environmental impacts, including spring flow and other interactions between groundwater and surface water; the impact on the interests and rights in private property, including ownership and rights of the owners of the land and their lessees and assigns in groundwater; the hydrogeological conditions, including the total estimated recoverable storage reported by the executive administrator, recharge, inflows, and discharge; the impact on subsidence; and any other information relevant to the specific desired future condition.

Subsection (d-1) Requires the districts to provide a written explanation of their determination of each consideration.

Subsection (d-2) Requires established desired future conditions to provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the groundwater management area.

Subsection (d-3) Provides that Subsection (d-2) may not be construed to prohibit the establishment of desired future conditions that provide for reasonable long-term management of groundwater resources consistent with the management goals of a district's management plan.

Subsection (d-4) Makes conforming, nonsubstantive changes using existing law.

Subsection (d-5) Makes conforming, nonsubstantive changes using existing law.

Subsection (d-6) Makes conforming, nonsubstantive changes using existing law.

Subsection (o) Makes conforming changes. Strikes "managed" and replaces it with "modeled."

SECTION 5. Amends Section 36.1132, Water Code, by amending the title of the section as PERMITS BASED ON MODELED AVAILABLE GROUNDWATER. Makes conforming changes. Strikes "managed" and replaces it with "modeled."

SECTION 6. Provides for 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, 2011.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1547 differs from the original by requiring each regional water planning group to submit to the TWDB a regional water plan that identifies each source of water supply in the regional water planning area that includes certain information on the amount of "modeled" available groundwater, whereas the original contained no such provision.

C.S.H.B. 1547 differs from the original by changing the defined term "total aquifer storage" to "total estimated recoverable storage" and replacing the term "managed available groundwater" with "modeled available groundwater." Differs from the original by redefining "Modeled available groundwater" as the amount of water that the executive administrator determines may be produced on an average annual basis to achieve a desired future condition established under Section 36.108, whereas the original contained no such provisions.

C.S.H.B. 1547 differs from the original by requiring groundwater conservation districts, in establishing the desired future conditions of aquifers, to consider whether the desired future

conditions are physically possible, whereas the original requires districts to consider the feasibility of the desired future conditions.

C.S.H.B. 1547 differs from the original by requiring the districts, in considering hydrogeological conditions, to consider the total estimated recoverable storage reported by the executive administrator of the TWDB, recharge, inflows, and discharge, whereas the original requires consideration of the average annual recharge, inflows, and discharge and the total calculated volume of groundwater that aquifers in the management area are capable of producing as provided by the executive administrator.

C.S.H.B. 1547 differs from the original by making additional conforming changes to Sections 36.108 (o) and 36.1132, Water Code, whereas the original contained no such provisions.