

BILL ANALYSIS

H.B. 2794
By: Hunter
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Constitution authorizes the creation of groundwater conservation districts to manage and conserve groundwater, and many political subdivisions in Calhoun County are of the opinion that there is a public necessity for such a district for the proper management of groundwater in the county. H.B. 2794 provides for the creation of the Calhoun County Groundwater Conservation District, the initial boundaries of which are to be coextensive with the boundaries of the county.

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

H.B. 2794 amends the Special District Local Laws Code to create the Calhoun County Groundwater Conservation District and sets out the nature of the district. The bill establishes that if the creation of the district is not confirmed at a confirmation election before December 31, 2016, the district is dissolved on that date except that the district is required to pay any debts incurred, transfer to Calhoun County any assets that remain after paying debts, and maintain the organization of the district until debts are paid and remaining assets are transferred. The bill provides for its expiration on September 1, 2018, if the district is not so confirmed.

H.B. 2794 sets out legislative findings, establishes that the initial boundaries of the district are coextensive with the boundaries of Calhoun County, and provides that the bill's provisions prevail over any provision of general law, including Water Code provisions relating to groundwater conservation districts.

H.B. 2794 requires the Calhoun County Commissioners Court, not later than September 11, 2011, to appoint five temporary directors and sets out provisions relating to the temporary directors. The bill establishes that the temporary directors serve until the earlier of the date the creation of the district is confirmed or September 1, 2015, and establishes provisions providing for successor temporary directors. The bill requires the temporary directors, not later than October 1, 2011, to meet and order an election to be held in the district not later than September 1, 2012, to confirm the creation of the district, provides for the ballot language, and establishes provisions regarding such an election. The bill authorizes the temporary board to include other propositions on the ballot that the board considers necessary. The bill requires the temporary directors to declare the district created if a majority of the votes cast at the election are in favor of confirming the district's creation and authorizes the temporary directors to order one or more subsequent elections to confirm the creation of the district not earlier than the first anniversary of the preceding confirmation election if the district's creation is not confirmed. The bill sets out provisions regarding the terms of the initial directors if the creation of the district is confirmed. The bill sets these provisions relating to the appointment of temporary directors, confirmation election, and initial directors to expire September 1, 2018.

H.B. 2794 establishes that the district is governed by a board of five elected directors serving staggered four-year terms, with two or three directors' terms expiring December 31 of each even-numbered year. The bill establishes that the directors of the district are elected according to the commissioners precinct method as provided by the bill and sets out related provisions. The bill requires the district to hold an election to elect the appropriate number of directors on the uniform election date in November of each even-numbered year. The bill provides for the event of a vacancy on the board of directors, establishes that a director is not entitled to receive compensation for performing the duties of a director, and authorizes the board to authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the district.

H.B. 2794 sets out provisions relating to the powers and duties of the district. The bill prohibits the district from denying the owner of a tract of land or the owner's lessee, who does not have a well equipped to produce more than 25,000 gallons each day on the tract, either a permit to drill a well on the tract or the privilege to produce groundwater from the tract, subject to district rules. The bill authorizes the district to assist in the mediation between landowners regarding the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others. The bill prohibits the district from exercising the power of eminent domain.

H.B. 2794 authorizes the board by rule to impose a reasonable fee on each well for which a permit is issued by the district and that is not exempt from regulation by the district. The bill authorizes the fee to be based on the size of column pipe used by the well or the actual, authorized, or anticipated amount of water to be withdrawn from the well. The bill authorizes the district, in addition to such an imposed fee, to impose a reasonable fee or surcharge for an export fee using a fee negotiated between the district and the transporter or a combined production and export fee. The bill establishes that the authorized fees imposed by the district may be assessed annually and may be used to fund the cost of district operations. The bill prohibits the district from imposing a tax and establishes that the district does not have the authority granted by certain provisions applicable to groundwater conservation districts relating to taxes.

H.B. 2794 defines "board," "director," and "district."

EFFECTIVE DATE

September 1, 2011.