

BILL ANALYSIS

C.S.H.B. 2859
By: Gallego
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is concern that the lack of a water conservation district in Terrell County hinders any efforts to protect historic users and keep a sustainable approach to maintaining the aquifer in the county, which is a potential problem for effective groundwater management. C.S.H.B. 2859 seeks to address these issues by establishing provisions relating to the creation of the Terrell County Groundwater Conservation District and providing authority to impose a tax and issue bonds in order to establish the county's ability to manage, protect, and preserve the aquifer that is located within the geographical 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

C.S.H.B. 2859 amends the Special District Local Laws Code to create the Terrell County Groundwater Conservation District and to set out the nature of the district. The bill establishes temporary provisions set to expire September 1, 2016, dissolving the district on December 31, 2012, if the creation of the district is not confirmed at a confirmation election before such date and provides certain district requirements on such dissolution. The bill establishes that the initial boundaries of the district are coextensive with the boundaries of Terrell County and authorizes the district board of directors to change the district's name when the district annexes territory. The bill makes Water Code provisions relating to groundwater conservation districts applicable to the district except for a provision relating to a limitation on rulemaking power of a district over wells in certain counties.

C.S.H.B. 2859 requires the Terrell County Commissioners Court to appoint five initial directors not later than the 45th day after the bill's effective date, two of whom must represent urban interests in the district and three of whom must represent agricultural interests in the district. The bill requires one director representing urban interests and two directors representing agricultural interests to be appointed to terms that expire April 1, 2013, and the other two directors to be appointed to terms that expire April 1, 2015. The bill requires the initial directors to hold an election to confirm the creation of the district and establishes provisions regarding such an election. The bill sets its provisions relating to the appointment of initial directors and a confirmation election to expire September 1, 2016.

C.S.H.B. 2859 establishes that the district is governed by a board of five directors appointed by the commissioners court serving staggered four-year terms, with two or three directors' terms expiring April 1 of each odd-numbered year, and authorizes a director to serve consecutive terms. The bill requires the commissioners court to appoint a director to succeed a serving director on or before the date the serving director's term expires and, if there is a vacancy on the board, to appoint a person to fill the vacancy for the remainder of the term in a manner that meets the representational requirements of the board. The bill makes certain Water Code

provisions relating to fees of office and reimbursement inapplicable to the district, 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, and prohibits the compensation from exceeding \$3,000 a year. The bill 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 board.

C.S.H.B. 2859 sets out provisions relating to district powers and duties. The bill prohibits the district from purchasing, selling, transporting, or distributing surface water or groundwater for any purpose. The bill prohibits the district from exercising the power of eminent domain.

C.S.H.B. 2859 prohibits the district from imposing property taxes at a rate that exceeds 1.5 cents on each \$100 valuation of taxable property in the district. The bill 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. The bill 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. The bill requires the board to base the initial production fee on the amount of water actually withdrawn from the well or the amount authorized or anticipated to be withdrawn and 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. The bill authorizes the initial production fee to be increased at a cumulative rate not to exceed three percent per year. The bill authorizes the district to assess an export fee on groundwater from a well that is produced for transport outside the district. The bill authorizes fees to be assessed annually, used to pay the cost of district operations, and used for any other purpose allowed under provisions applicable to groundwater conservation districts. The bill authorizes the district to issue bonds and notes under such applicable provisions, except that the total indebtedness created by that issuance may not exceed \$500,000 at any time.

C.S.H.B. 2859 defines "board," "commissioners court," "director," and "district."

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2859 contains a provision not included in the original defining "commissioners court." The substitute differs from the original by requiring the Terrell County Commissioners Court to appoint five initial directors to Terrell County Groundwater Conservation District board, whereas the original provides for the appointment of five temporary directors to the board, four appointed by the commissioners court, with one from each of the four commissioners precincts, and one appointed by the county judge. The substitute differs from the original in provisions setting out the representational requirements of the initial board of directors by requiring that two of the directors represent urban interests in the district and three represent agricultural interests in the district, whereas the original requires at least one temporary director to represent rural water suppliers, one to represent agricultural interests in the district, and one to represent industrial interests in the district. The substitute contains a provision not included in the original requiring one initial director representing urban interests and two initial directors representing agricultural interest to be appointed to terms that expire April 1, 2013, with the two other directors appointed to terms that expire April 1, 2015. The substitute omits provisions included in the original establishing the terms of temporary directors, the appointment of successor temporary directors, and an organizational meeting of temporary directors. The substitute omits provisions included in the original providing for the election of initial directors of the district, the terms of such elected initial directors, and the first election of permanent directors.

C.S.H.B. 2859 contains a provision not included in the original specifying that the board of directors governing the district is appointed by the commissioners court. The substitute contains

a provision not included in the original setting out the representational requirements of the board of directors. The substitute differs from the original, in a provision establishing the directors' terms, by specifying that two or three directors' terms expire April 1 of each odd-numbered year, whereas the original specifies that such directors' terms expire June 1 of each even-numbered year. The substitute contains provisions not included in the original requiring the commissioners court to appoint a director to succeed a serving director on or before the date the serving director's term expires and providing for a contingency in case of a vacancy on the board. The substitute omits provisions included in the original establishing the method by which directors are to be elected and the election date. The substitute differs from the original in nonsubstantive ways.