

BILL ANALYSIS

Senate Research Center

S.B. 907
By: Seliger
Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Groundwater conservation districts (GCDs) across the state are working together within groundwater management areas (GMAs) to establish desired future conditions (DFCs) for their aquifers and regions. This bill would require a GCD to adopt or amend rules as necessary to limit production or allocate groundwater accordingly in order to meet and achieve the DFC. The intent is simple, that management plans establish necessary components in order for the region to actually meet the DFC.

The management plan must be submitted to the executive administrator of the Texas Water Development Board (TWDB) for administrative approval. The TWDB then shall review the management plan to determine whether the goals of the management plan are consistent to achieve the DFC. If TWDB determines that the management plan is not adequate to achieve the DFC, the TWDB may recommend that a GCD make changes to that plan. After changes are made, and the TWDB has confirmed that the management plan in place will achieve the DFC, the GCD must readopt the management plan.

As proposed, S.B. 907 amends current law relating to the management, operation, rulemaking authority, and oversight of groundwater conservation districts.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to groundwater conservation districts in SECTION 1 (Section 36.1071, Water Code) of this bill.

Rulemaking authority previously granted to groundwater conservation districts is rescinded in SECTION 1 (Section 36.1071, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.1071, Water Code, by amending Subsection (c) and (f) and adding Subsection (f-1), as follows:

(c) Requires the Texas Commission on Environmental Quality (TCEQ) and the Texas Water Development Board (TWDB) to provide technical assistance to a district in the development of the management plan required under Subsection (a) that may include, if requested by the district, a preliminary review and comment on the plan prior to final approval by TWDB. Requires TCEQ, if such a review and comment by TCEQ is requested, to provide comment not later than 30 days from the date the request is received. Makes nonsubstantive changes.

(f) Provides that the district, prior to the development of the district's first management plan and approval of that plan under Section 36.1072 (Texas Water Development Board Review and Approval of Management Plan):

(1) may accept applications for permits under Section 36.113 (Permits for Wells; Permit Amendments), provided the district does not act on any such application until the district's management plan is approved as provided in Section 36.1072;

(2) may adopt rules pertaining to the registration, interim permitting, metering, production reporting, spacing, and where applicable, fee payment for authorized or actual production of water from new and existing wells;

(3) may adopt rules governing procedure before the district's board; and

(4) may not adopt any rules limiting the production of wells, except rules requiring that groundwater produced from a well be put to a nonwasteful, beneficial use.

Deletes existing text authorizing the district to adopt rules necessary to implement the management plan and deletes existing text prohibiting the district from adopting rules other than rules pertaining to the registration and interim permitting of new and existing wells and rules governing spacing and procedure before the district's board. Deletes existing text prohibiting the district from adopting any rules limiting the production of wells, except rules requiring that groundwater from a well be put to a nonwasteful beneficial use. Makes nonsubstantive changes.

(f-1) Requires the district, after a management plan is finally approved under Section 36.1072, to adopt rules or amend rules limiting the production of wells or allocating groundwater as necessary to implement the management plan and achieve the applicable desired future condition. Prohibits a district from adopting rules or amending rules limiting the production of wells or allocating groundwater if the district fails to:

(1) adopt a management plan as required by this section;

(2) submit a management plan to the executive administrator of TWDB (executive administrator) as required by Section 36.1072; and

(3) receive approval of the management plan under Section 36.1072.

SECTION 2. Amends Section 36.1072, Water Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Provides that once the executive administrator has granted administrative approval to, rather than approved, a management plan:

(1) the executive administrator may not revoke but may require revisions to the approved management plan, rather than the approved groundwater conservation district manage plan, as provided by Subsection (g); and

(2) the executive administrator may request additional information from the district if the information is necessary to clarify, modify, or supplement previously submitted material, rather than the executive administrator may request additional information from the district if the information is necessary to clarify, modify, or supplement previously submitted material, but a request for additional information does not render the management plan unapproved.

(c-1) Requires the executive administrator, not later than the 60th day after the date of the administrative approval of a district's management plan under Subsection (c) to review the management plan to determine whether goals of the management plan are consistent with the achievement of the desired future conditions established under Section 36.108(d) (relating to joint planning in management area), that are applicable to all or part of the district, considering any available information regarding groundwater levels, and request additional information from the district, recommend that the district make substantive changes to the management plan, or approve the management plan.

SECTION 3. Amends Section 36.1073, Water Code, as follows:

Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Requires that any amendment to a district's management plan, rather than the management plan, be submitted to the executive administrator within 60 days following adoption of the amendment by the district's board. Requires the executive administrator to review and approve any amendment that, rather than which, substantially affects the management plan in accordance with the procedures established under Section 36.1072.

SECTION 4. Amends Section 36.108(n), Water Code, to require the districts to prepare revised conditions, rather than a revised plan, in accordance with development board recommendations and hold, after notice, at least one public hearing at a central location in the groundwater management area.

SECTION 5. Amends Section 36.207, Water Code, as follows:

Sec. 36.207. New heading: USE OF PRODUCTION FEES AUTHORIZED BY SPECIAL LAW. Authorizes a district to use funds obtained from production fees, rather than permit fees, collected pursuant to the special law governing the district for any purpose consistent with the district's approved management plan, rather than certified management plan, including without limitation, making grants, loans, or contractual payments to achieve facilitate, or expedite, reductions in groundwater pumping or the development or distribution of alternative water supplies.

SECTION 6. Amends Section 36.301, Water Code, as follows:

Sec. 36.301. New heading: VIOLATIONS RELATED TO MANAGEMENT PLAN. Requires TCEQ to take appropriate action under Section 36.303 (Action by Commission) if:

- (1) a district adopts or amends a rule in violation of Section 36.1071(f-1);
- (2) a district fails to submit a management plan or to receive approval of the management plan under Section 36.1072, rather than if a board fails to submit a management plan or to receive certification of its management plan under Section 36.1072;
- (3) a district fails to timely readopt the management plan or to submit the readopted management plan to the executive administrator for approval in accordance with Section 36.1072(f);
- (4) the executive administrator determines that a readopted management plan does not meet the requirements for approval, and the district has exhausted all appeals; or
- (5) a district fails to submit or receive approval of an amendment to the management plan under Section 36.1073 (Additional Security Bonds and Notes), rather than if a district fails to submit or receive certification of an amendment to the management plan under Section 36.1073, TCEQ shall take appropriate action under Section 36.303.

SECTION 7. (a) Provides that Section 36.1071, Water Code, as amended by this Act applies only to the rulemaking authority of a groundwater conservation district related to a management plan or an amendment to a management plan that is submitted by the district to the executive administrator for review and approval on or after the effective date of this Act. Provides that a district's rulemaking authority related to a management plan or an amendment to a management plan that is submitted to the executive administrator before the effective date of this Act is governed by the law in effect when the management plan or amendment was submitted, and the former law is continued in effect for that purpose.

(b) Makes application of the change in law made by this Act to Section 36.301, Water Code prospective.

SECTION 8. Effective date: upon passage or September 1, 2011.