

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 25, 2011

TO: Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: SB1306 by Hegar (Relating to the procedures for and appeals of desired future conditions adopted by groundwater management areas.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Water Code to modify the procedures for determining the desired future conditions adopted by a groundwater conservation district (GWCD) in a groundwater management area. The bill would specify public hearing procedures for board meetings or hearings regarding the desired future conditions for an aquifer. In developing a management plan, a GWCD would be required to address desired future conditions as specified by the provisions of the bill. In the annual meeting of GWCDs in a groundwater management area, the district representatives would be required to review proposals to adopt new or amend existing desired future conditions.

The bill would modify processes for adopting desired future conditions and require a district to submit an explanatory report as proof that certain requirements were met, and include why some desired future conditions options were or were not adopted prior to adopting the desired future conditions in a resolution. A district's adoption of a desired future condition could be appealed in a district court in the manner provided under Subchapter H for a challenge to a district rule.

In order to assist in developing desired future conditions, the Texas Commission on Environmental Quality (TCEQ) and the Texas Water Development Board (TWDB) would be required to make technical staff available upon request. During a joint planning session, district representatives could appoint outside representatives to assist in the development of future desired conditions.

The bill would expand the number of individuals deemed an "affected person" with the ability to petition for inquiry in regard to the management plan and adoption of future desired conditions. A district would be required to submit desired future conditions to TWDB. If a district violates any of the requirements, TCEQ would have the authority to take action against the district.

According to TCEQ, no significant fiscal impact is anticipated to implement the provisions of the bill.

Local Government Impact

According to the analysis of the Sunset Advisory Commission (SAC), the modification of posting requirements for joint planning meetings in groundwater management areas and for the adoption of desired future conditions (DFCs) should not result in a significant fiscal impact since the posting requirements generally match current requirements for district and joint planning meetings; and posting notice on a district's website could likely be absorbed within existing resources. Holding a 30-day public comment period and hearing should not result in additional costs since districts already post notices and hold district meetings at which the district could hold its public hearing. Districts currently submit proof of notice for adoption of DFCs to TWDB.

SAC also noted the requirement for groundwater management areas to provide more detailed documentation for consideration of factors or criteria to be considered in adopting DFCs and to submit an explanatory report to TWDB should not result in additional costs because districts currently meet to

discuss and develop DFCs and adopt resolutions documenting their decisions. In addition, districts would be required to adopt relevant DFCs through rule, with the proper adoption of the rule subject to challenge in district court, through the same procedures currently used to challenge district rules. Any rule adopted by a district is subject to such an appeal in district court. The number of challenges to such a rule or the cost for appeal cannot be estimated, but is not anticipated to have a significant fiscal impact to districts. Additionally, statute provides for districts, if they prevail in any suit, to recover attorney's fees, costs for expert witness and other costs incurred.

Several groundwater conservation districts reported there could be estimated costs of \$15,000 to each district due to additional public notices and hearings, and additional expenses for the groundwater management area. The amounts would result in 16 percent to 60 percent of the total budget for these districts.

Source Agencies: 116 Sunset Advisory Commission, 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, SZ, TP