

BILL ANALYSIS

C.S.S.B. 1031
By: Taylor
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Harris-Galveston Subsidence District (district) was created in 1975 to control and prevent subsidence within the district by reducing groundwater withdrawals. This goal is achieved through a regulatory plan that requires converting groundwater supplies to alternative water supplies. The legislature created several regional water authorities to aid in the water supply conversion process.

C.S.S.B. 1031 updates the district's statute to recognize large aggregate permits. In addition, several administrative changes are made to clarify certain permit exemptions, provide for appointment of an investment officer, and define certain terms.

C.S.S.B. 1031 amends current law relating to the Harris-Galveston Subsidence District, and provides authority to impose a fee.

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 8801.001, Special District Local Laws Code, by adding Subdivision (4-c) as follows:

(4-c) Defines "regional water supplier" to mean a political subdivision of this state that has:

(A) the authority to conserve, store, treat, and purify water and to transport, distribute, sell, and deliver water to any person in this state; and

(B) an approved groundwater reduction plan.

SECTION 2. Amends Subchapter B, Chapter 8801, Special District Local Laws, by adding Section 8801.066, as follows:

Sec. 8801.066. INVESTMENT OFFICER. (a) Authorizes the board of the Harris-Galveston Subsidence District (board) (district), notwithstanding Section 2256.005(f) (relating to requiring each investing entity to designate one or more certain persons as an investment officer, and setting forth restrictions and provisions for the investment officer's duties), Government Code, to contract with a person to act as investment officer of the district.

(b) Requires the investment officer to:

(1) not later than the first anniversary of the date the officer takes office or assumes the officer's duties, attend a training session of at least six hours of instruction relating to investment responsibilities under Chapter 2256 (Public Funds Investment), Government Code; and

(2) attend at least four hours of additional investment training within each two-year period after the first year.

(c) Requires that training under this section be from an independent source approved by the board, or a designated investment committee advising the investment officer.

(d) Requires that training under this section include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with Chapter 2256, Government Code.

SECTION 3. Amends Sections 8801.110(c) and (e), Special District Local Laws Code, as follows:

(c) Requires that written notice of a hearing other than a hearing on a permit application be given to certain persons and entities, including to each county, regional water supplier, and municipal government in the district.

(e) Requires that a copy of the notice be provided to each county clerk to be posted in the place where notices are usually posted at the county courthouse of each county in the district.

SECTION 4. Amends Section 8801.115, Special District Local Laws Code, to make a nonsubstantive change.

SECTION 5. Amends Section 8801.117(a), Special District Local Laws Code, to require the board to hold an annual hearing, rather than requiring the board, not later than March 31 of each year, to hold a hearing, to determine the effects of groundwater withdrawal during the preceding calendar year on subsidence in the district.

SECTION 6. Amends Section 8801.151, Special District Local Laws Code, as follows:

Sec. 8801.151. GROUNDWATER WITHDRAWALS SUBJECT TO BOARD RULE.

(a) Creates this section from existing text. Provides that groundwater withdrawals governed by this chapter, including withdrawals of injected water, are subject to reasonable board rules and orders, taking into account all factors, including availability of surface water or alternative water supplies, economic impact on persons and the community, degree and effect of subsidence on the surface of land, and differing topographical and geophysical characteristics of land areas in the district.

(b) Authorizes the board to issue permits to drill new wells and may, by rule, provide exemptions from the permit requirements. Requires the district to grant a permit to drill and operate a new well inside a platted subdivision if water service from a local retail public utility is not available to the lot where the well is to be located.

(c) Defines "retail public utility" to have the meaning assigned by Section 13.002, Water Code, in this section.

SECTION 7. Amends Section 8801.152, Special District Local Laws Code, as follows:

Sec. 8801.152. New heading: CERTAIN GROUNDWATER USES EXEMPT. Provides that the permit requirements, rather than the regulatory provisions, of this chapter (Harris-Galveston Subsidence District) do not apply to a well regulated under Chapter 27 (Injection Wells), Water Code, a well with a casing diameter of less than five inches that serves only a single-family dwelling, and any other well as provided by board rule.

SECTION 8. Amends Sections 8801.155(a) and (c), Special District Local Laws Code, as follows:

(a) Requires a well owner, rather than the owner or operator of a well located in the district, to obtain a permit from the board before taking certain actions.

(c) Changes references to an owner or operator to a well owner.

SECTION 9. Amends Section 8801.158(c), Special District Local Laws Code, to require the board to issue a permit to an applicant if, on presentation of adequate proof, the board finds that there is no other adequate and available substitute or supplemental source of alternative water supplies, rather than surface water, at prices competitive with the prices charged by suppliers of alternative water supplies, rather than surface water, in the district, and that compliance with any provision of this chapter or any district rule will result in an arbitrary taking of property or in the practical closing and elimination of a lawful business, occupation, or activity without sufficient corresponding benefit or advantage to the public.

SECTION 10. Amends Section 8801.161(b-1), Special District Local Laws Code, to prohibit the fee under Subsection (a) (relating to requiring the board to collect a permit fee from an applicant, any time the board issues or renews a permit) from exceeding 110 percent of the highest rate that the City of Houston charges for water, rather than surface water, supplied to its customers in the district.

SECTION 11. Amends Section 8801.162, Special District Local Laws Code, as follows:

Sec. 8801.162. ANNUAL REPORT. (a) Creates this subsection from existing text. Requires a well owner who is required to hold a permit, rather than a well owner who holds a permit, under this chapter, before January 31 of each year, to submit to the board a report stating certain information, including the total amount of groundwater withdrawn from the well during the preceding calendar year, rather than during the preceding 12-month period, and the total amount of groundwater withdrawn from the well during each month of the preceding calendar year, rather than during each month of the preceding 12-month period.

(b) Requires a well owner whose well is aggregated with other wells permitted and managed by a regional water supplier, for the purposes of this section, to file the report with the regional water supplier instead of the district. Requires water suppliers to annually submit to the board the report required in Subsection (a) for all wells owned, managed, or permitted by that supplier no later than March 31.

SECTION 12. Repeals Sections 8801.163(a) (defining "alternative water supply" in this section), Special District Local Laws Code.

SECTION 13. Requires a person who is an investment officer for the Harris-Galveston Subsidence District and who holds that office on the effective date of this Act to attend the training required by Section 8801.066(b)(1), Special District Local Laws Code, as added by this Act, not later than the first anniversary of the effective date of this Act, unless the person has already taken the training in the 12 months preceding that effective date.

SECTION 14. Provides that the authority of a regional water authority to impose a charge on a well or class of wells located within the boundaries of the Harris-Galveston Subsidence District is not affected by the ceasing of that well or class of wells on or after February 1, 2013, to be subject to:

- (1) a groundwater reduction requirement imposed by the subsidence district; or
- (2) the regulatory provisions, permitting requirements, or jurisdiction of the subsidence district.

SECTION 15. Provides for the effective date of this Act.

EFFECTIVE DATE

This Act takes effect immediately if this Act receives a vote of two-thirds of all members of both houses; otherwise, this Act takes effect September 1, 2013.

COMPARISON OF ORIGINAL TO SUBSTITUTE

INTRODUCED

SECTION 1. Section 8801.001, Special District Local Laws Code, is amended by adding Subdivision (4-c) to read as follows:
(4-c) "Regional water supplier" means a political subdivision of this state that has:
(A) the authority to conserve, store, treat, and purify water and to transport, distribute, sell, and deliver water to any person in this state; and
(B) an approved groundwater reduction plan.

SECTION 2. Subchapter B, Chapter 8801, Special District Local Laws Code, is amended by adding Section 8801.066 to read as follows:
Sec. 8801.066. INVESTMENT OFFICER.
(a) Notwithstanding Section 2256.005(f), Government Code, the board may contract with a person to act as investment officer of the district.
(b) The investment officer shall:
(1) not later than the first anniversary of the date the officer takes office or assumes the officer's duties, attend a training session of at least six hours of instruction relating to investment responsibilities under Chapter 2256, Government Code; and
(2) attend at least four hours of additional investment training within each two-year period after the first year.
(c) Training under this section must be from an independent source approved by:
(1) the board; or
(2) a designated investment committee advising the investment officer.
(d) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with Chapter 2256, Government Code.

SECTION 3. Subsections (c) and (e), Section 8801.110, Special District Local Laws Code, are amended to read as follows:
(c) Written notice of a hearing other than a hearing on a permit application must be given to:
(1) each county, regional water supplier, and municipal government in the district; and
(2) each person that the board believes has an interest in the subject matter of the hearing.
(e) A copy of the notice must be provided to each county clerk to be posted in the place

HOUSE COMMITTEE REPORT

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

where notices are usually posted at the county courthouse of each county in the district.

SECTION 4. Section 8801.115, Special District Local Laws Code, is amended to read as follows:

Sec. 8801.115. STUDIES BY BOARD STAFF. At least once each year and at any other time the board considers necessary, the board shall have its staff and, if necessary, the staff of the Texas Water Development Board make a complete study of the groundwater in the district and determine:

- (1) the water level;
- (2) the rates and amounts of groundwater withdrawal; and
- (3) other information relating to groundwater withdrawal that may affect ~~[effect]~~ subsidence in the district.

SECTION 5. Subsection (a), Section 8801.117, Special District Local Laws Code, is amended to read as follows:

(a) ~~The [Not later than March 31 of each year, the]~~ board shall hold an annual [a] hearing to determine the effects of groundwater withdrawal during the preceding calendar year on subsidence in the district.

SECTION 6. Section 8801.151, Special District Local Laws Code, is amended to read as follows:

Sec. 8801.151. GROUNDWATER WITHDRAWALS SUBJECT TO BOARD RULE.

(a) Groundwater withdrawals governed by this chapter, including withdrawals of injected water, are subject to reasonable board rules and orders, taking into account all factors, including availability of surface water or alternative water supplies, economic impact on persons and the community, degree and effect of subsidence on the surface of land, and differing topographical and geophysical characteristics of land areas in the district.

(b) The board may issue permits to drill new wells and may, by rule, provide exemptions from the permit requirements. The district shall grant a permit to drill and operate a new well inside a platted subdivision if an applicant provides official documentation from the local retail public utility affirming that water service will not be available to the lot where the well is to be located. If more than one retail public utility may provide service to the lot where the well is to be located, the applicant must provide official

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Section 8801.151, Special District Local Laws Code, is amended to read as follows:

Sec. 8801.151. GROUNDWATER WITHDRAWALS SUBJECT TO BOARD RULE.

(a) Groundwater withdrawals governed by this chapter, including withdrawals of injected water, are subject to reasonable board rules and orders, taking into account all factors, including availability of surface water or alternative water supplies, economic impact on persons and the community, degree and effect of subsidence on the surface of land, and differing topographical and geophysical characteristics of land areas in the district.

(b) The board may issue permits to drill new wells and may, by rule, provide exemptions from the permit requirements. The district shall grant a permit to drill and operate a new well inside a platted subdivision if ~~water service from a local retail public utility is not available to the lot where the well is to be located.~~

documentation from each of the utilities.

(c) In this section, "retail public utility" has the meaning assigned by Section 13.002, Water Code.

(d) The district may not count the volume of water withdrawn under a permit issued under Subsection (b) against a groundwater reduction plan of a retail public utility.

(c) In this section, "retail public utility" has the meaning assigned by Section 13.002, Water Code.

SECTION 7. Section 8801.152, Special District Local Laws Code, is amended to read as follows:

Sec. 8801.152. CERTAIN

GROUNDWATER USES ~~[WELLS]~~

EXEMPT. The permit requirements ~~[regulatory provisions]~~ of this chapter do not apply to:

(1) a well regulated under Chapter 27, Water Code;

(2) a well with a casing diameter of less than five inches that serves only a single-family dwelling; and

(3) any other well as provided by board rule.

SECTION 7. Same as introduced version.

SECTION 8. Subsections (a) and (c), Section 8801.155, Special District Local Laws Code, are amended to read as follows:

(a) A ~~[The owner or operator of a]~~ well owner ~~[located in the district]~~ must obtain a permit from the board before:

(1) drilling, equipping, or completing the well;

(2) substantially altering the size of the well or a well pump; or

(3) operating the well.

(c) A well ~~[An]~~ owner ~~[or operator]~~ commits a violation if the well owner ~~[or operator]~~ does not obtain a permit as required by Subsection (a). A violation occurs on the first day the drilling, alteration, or operation begins. Each day that a violation continues is a separate violation.

SECTION 8. Same as introduced version.

SECTION 9. Subsection (c), Section 8801.158, Special District Local Laws Code, is amended to read as follows:

(c) The board shall issue a permit to an applicant if, on presentation of adequate proof, the board finds that:

(1) there is no other adequate and available substitute or supplemental source of alternative ~~[surface]~~ water supplies at prices competitive with the prices charged by suppliers of alternative ~~[surface]~~ water supplies in the district; and

(2) compliance with any provision of this chapter or any district rule will result in an arbitrary taking of property or in the practical closing and elimination of a lawful

SECTION 9. Same as introduced version.

business, occupation, or activity without sufficient corresponding benefit or advantage to the public.

SECTION 10. Subsection (b-1), Section 8801.161, Special District Local Laws Code, is amended to read as follows:

(b-1) The fee under Subsection (a) may not exceed 110 percent of the highest rate that the City of Houston charges for ~~[surface]~~ water supplied to its customers in the district.

SECTION 11. Section 8801.162, Special District Local Laws Code, is amended to read as follows:

Sec. 8801.162. ANNUAL REPORT.

(a) Before January 31 each year, a well owner who is required to hold ~~[holds]~~ a permit under this chapter shall submit to the board a report stating:

- (1) the well owner's name;
- (2) the total amount of groundwater withdrawn from the well during the preceding calendar year ~~[12-month period]~~;
- (3) the total amount of groundwater withdrawn from the well during each month of the preceding calendar year ~~[12-month period]~~;
- (4) the purpose for which the groundwater was used; and
- (5) any other information the board considers necessary.

(b) For the purposes of this section, a well owner whose well is aggregated with other wells permitted and managed by a regional water supplier is required to file the report with the regional water supplier instead of the district. Regional water suppliers are required to annually submit to the board the report required in Subsection (a) for all wells owned, managed, or permitted by that supplier no later than March 31.

SECTION 12. Subsection (a), Section 8801.163, Special District Local Laws Code, is repealed.

SECTION 13. An investment officer for the Harris-Galveston Subsidence District who holds that office on the effective date of this Act must attend the training required by Subdivision (1), Subsection (b), Section 8801.066, Special District Local Laws Code, as added by this Act, not later than the first anniversary of the effective date of this Act.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

SECTION 13. A person who is an investment officer for the Harris-Galveston Subsidence District and who holds that office on the effective date of this Act must attend the training required by Section 8801.066(b)(1), Special District Local Laws Code, as added by this Act, not later than the first anniversary of the effective date of this Act, unless the person has already taken the training in the 12 months preceding that

effective date.

No equivalent provision.

SECTION 14. The authority of a regional water authority to impose a charge on a well or class of wells located within the boundaries of the Harris-Galveston Subsidence District is not affected by the ceasing of that well or class of wells on or after February 1, 2013, to be subject to:

- (1) a groundwater reduction requirement imposed by the subsidence district; or
- (2) the regulatory provisions, permitting requirements, or jurisdiction of the subsidence district.

SECTION 14. 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, 2013.

SECTION 15. Same as introduced version.