

BILL ANALYSIS

Senate Research Center
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S.B. 1429
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Natural Resources
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

No groundwater conservation districts (GCD) in Texas are exempt from Desired Future Condition (DFC) studies in Chapter 36 (Groundwater Conservation Districts), Water Code. The Corpus Christi Aquifer Storage and Recovery Conservation District (CCASRD) is the only non-GCD with Chapter 36 authority subject to the DFC provisions.

According to the Texas Water Development Board, the DFC is the desired, quantified condition of groundwater resources (such as water levels, water quality, spring flows, or volumes) for a specified aquifer within a management area at a specified time or times in the future. As a result of a DFC, a determination is made on the amount of available groundwater for planning purposes through the regional water planning process. DFC studies and modeling can run into the thousands of dollars. Some have spent as much as \$250,000 to perform studies related to desired future conditions.

The CCASRD, as an entity, has no authority to levy taxes or assess fees, so it is unable to afford expensive studies, notice provisions, and public hearing expenses on a recurring basis. The City of Corpus Christi is responsible for the costs associated with the CCASRD.

The CCASRD is not legally or operationally a GCD. The CCASRD is designed to use the Gulf Coast Aquifer to store surface water transported by pipeline and pumped into the aquifer. Statute prohibits recovering more water from the aquifer than the amount stored, so CCASRD should not impact the DFC of the aquifer.

Since CCASRD does not and legally cannot impact the desired future condition of the aquifer, S.B. 1429 exempts this non-GCD from commissioning DFC studies required of ground water conservation districts.

As proposed, S.B. 1429 amends current law relating to the exemption of the Corpus Christi Aquifer Storage and Recovery Conservation District from certain provisions concerning the desired future conditions of an aquifer.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 8811.005, Special District Local Laws Code, as follows:

Sec. 8811.005. APPLICABILITY OF OTHER LAW. (a) Creates this subsection from existing text. Provides that, except as otherwise provided by this chapter, Chapter 36 (Water Conservation Districts), Water Code, applies to the Corpus Christi Aquifer Storage and Recovery Conservation District (district).

(b) Provides that the following provisions of Chapter 36, Water Code, do not apply to the district:

(1) Sections 36.063(b) (relating to requiring the board of directors of a district (board) to post notice that includes certain items) and (c) (relating to requiring that notice of a hearing described by Subsection (b) be provided in the manner prescribed for rulemaking hearing);

(2) Sections 36.1071(a)(8) (relating to requiring a district to develop a management plan that addresses certain management goals, including addressing the desired future conditions adopted by the district) and (e)(3)(A) (relating to requiring the district to include estimates of certain measures, including modeled available groundwater in the district based on the desired future condition);

(3) Sections 36.108(c)(4) (relating to requiring the districts to consider certain items, including the degree to which each management plan achieves the desired future conditions established during the joint planning process), (d) (relating to requiring the districts to consider groundwater availability models and other data or information for the management area), (d-1) (relating to authorizing the districts to establish different desired future conditions for certain areas), (d-2) (related to requiring the desired future conditions to provide a balance between the highest practicable level of groundwater production and certain concerns in the management area), (d-3) (relating to requiring the district representatives to reconvene to review the reports, consider any district's suggested revisions to the proposed desired conditions, and adopt the desired conditions for the management area), and (d-4) (relating to requiring the district to adopt the desired future conditions resolution and explanatory report that apply to the district);

(4) Section 36.1083 (Appeal of Desired Future Conditions);

(5) Section 36.1084 (Modeled Available Groundwater);

(6) Section 36.1085 (Management Plan Goals and Objectives); and

(7) Section 36.1132 (Permits Based on Modeled Available Groundwater).

(c) Prohibits an affected person from filing a petition with the Texas Commission on Environmental Quality (TCEQ) under Section 36.1082 (Petition for Inquiry), Water Code, requesting an inquiry in connection with the district for a reason provided by Subsection (b)(4) (relating to authorizing an affected person to file a petition with the Texas Natural Resource Conservation Commission (TNRCC) requesting an inquiry for certain reasons, including a district fails to adopt the applicable desired future conditions adopted by the management area at a joint meeting), (5) (relating to authorizing an affected person to file a petition with TNRCC requesting an inquiry for certain reasons, including a district fails to update its management plan before the second anniversary of the adoption of desired future conditions by the management area), (6) (relating to authorizing an affected person to file a petition with TNRCC requesting an inquiry for certain reasons, including a district fails to update its rules to implement the applicable desired future conditions before the first anniversary of the date it updated its management plan with the adopted desired future conditions), or (7) (relating to authorizing an affected person to file a petition with TNRCC requesting an inquiry for certain reasons, including the rules adopted by a district are not designed to achieve the desired future conditions adopted by the management area during the joint planning process) of that section.

(d) Prohibits TCEQ from taking action against the district under Section 36.3011 (Commission Action Regarding District Duties), Water Code, based on a finding under Subdivision (4) (relating to authorizing TNRCC to take any action against a district it considers necessary if TNRCC finds that the district has failed to adopt the applicable desired future conditions adopted by the management area at a joint meeting), (5) (relating to authorizing TNRCC to take any action against a district it considers necessary if TNRCC finds that the district has failed to update its management plan before the second anniversary of the adoption of desired future conditions by the management area), (6) (relating to authorizing TNRCC to take any action against a district it considers necessary if TNRCC finds that the district has failed to update its rules to implement the applicable desired future conditions before the first anniversary of the date it updated its management plan with the adopted desired future conditions), or (7) (relating to authorizing TNRCC to take any action against a district it considers necessary if TNRCC finds that the rules adopted by the district are not designed to achieve the desired future conditions adopted by the management area during the joint planning process) of that section.

SECTION 2. Provides that the change in law made by this Act applies only to a petition filed under Section 36.1082 (Petition for Inquiry) or 36.1083 (Appeal of Desired Future Conditions), Water Code, on or after the effective date of this Act. Provides that a petition filed before the effective date of this Act is governed by the law in effect when the petition was filed, and that law is continued in effect for that purpose.

SECTION 3. Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. Effective date: upon passage or September 1, 2013.