

BILL ANALYSIS

S.B. 1811
By: Hegar
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Fort Bend Subsidence District (district) was created in 1989 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 the North Fort Bend Water Authorities to aid in the water supply conversion process, and the district's statute should be updated to recognize this large aggregate permit along with the aggregate permits issued for other groundwater reduction plans. In addition, several administrative changes are needed to clarify certain permit exemptions, provide for appointment of an investment officer, and define certain terms.

S.B. 1811 amends current law relating to the Fort Bend Subsidence District.

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 8834.001, Special District Local Laws Code, by amending Subdivision (1) and adding Subdivisions (1-a), (4-a), (5-a), (5-b), (5-c), (7-a), and (8-a) to define "alternative water supply," "florist item," "nursery grower," "nursery product," "regional water supplier," "water conservation," and "well owner" and to make nonsubstantive changes.

(1) Defines "agricultural crop":

(A) to mean food or fiber commodities that are grown for resale or commercial purposes and that are to be used for food, clothing, or animal feed; and

(B) to include nursery products and florist items that are in the possession of a nursery grower.

(1-a) Defines "beneficial use" to mean any use that is useful or beneficial to the user, including:

(A) an agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational use, or a use for pleasure purposes; or

(B) exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals.

(4-a) Defines "florist item" to mean a cut flower, a potted plant, a blooming plant, an inside foliage plant, a bedding plant, a corsage flower, cut foliage, a floral decoration, or live decorative material.

(5-a) Defines "nursery grower" to mean a person who grows in any medium more than 50 percent of the nursery products or florist items that the person sells or leases. A person grows a nursery product or florist item if the person cultivates or propagates the

product or item by engaging in activities associated with the production or multiplying of stock, including the development of new plants from cuttings, grafts, plugs, or seedlings. The term does not include a person who merely holds or maintains a nursery product or florist item before sale or lease.

(5-b) Defines “nursery product” to include a tree, shrub, vine, cutting, graft, scion, grass, bulb, or bud that is grown or kept for, or capable of, propagation and distribution for sale or lease.

(5-c) Defines “regional water supplier” to mean a political subdivision of this state that has:

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

(B) an approved groundwater reduction plan.

(7-a) Defines “water conservation” to mean a measure that seeks to make a water supply available for alternative or future use. Provides that the term includes best management practices, improved efficiency or accountability, recycling, reuse, pollution prevention, and reduction in consumption, loss, or waste.

(8-a) Defines “well owner” to mean a person who has an ownership interest in a well, operates a well, owns land on which a well is located, or owns the water withdrawn or to be withdrawn from a well.

SECTION 2. Amends Section 8834.006, Special District Local Laws Code, as follows:

Sec. 8834.006. CERTAIN OTHER STATUTES INAPPLICABLE. (a) Creates this subsection from existing text. Makes no further change to this subsection.

(b) Provides that this chapter (Fort Bend Subsidence District), notwithstanding Section 36.052 (Other Laws Not Applicable), Water Code, prevails over any other law in conflict or inconsistent with this chapter.

SECTION 3. Amends Section 8834.055, Special District Local Laws Code, by amending Subsections (a) and (c) and adding Subsection (d), as follows:

(a) Requires the board of directors (board) of the Fort Bend Subsidence District (district), each year, at the first meeting after the new directors take office, to select a chair, a vice chair, and a secretary, rather than a president, a vice president, and a secretary.

(c) Requires the chair, rather than the president, to preside over meetings of the board. Requires the vice chair, rather than vice president, if the chair, rather than president, is not present, to preside.

(d) Requires the secretary to ensure that all records and books of the district are properly kept and attest to the chair's signature on all documents. Authorizes the board to authorize another director, the general manager, or any employee or contractor to execute documents on behalf of the district and to certify the authenticity of any record of the district.

SECTION 4. Amends Section 8834.056, Special District Local Laws Code, as follows:

Sec. 8834.056. MEETINGS. (a) Requires the board to hold regular meetings, rather than one regular meeting each month, at a time set by the board.

(b) Authorizes the board to hold a special meeting at the call of the chair, rather than president, or on the written request of at least three directors.

SECTION 5. Amends Section 8834.057(b), Special District Local Laws Code, to provide that a meeting of a committee of the board is not subject to Chapter 551 (Open Meetings), Government Code, if less than a quorum of the board is present at the meeting.

SECTION 6. Amends Section 8834.104(a), Special District Local Laws Code, to require the board to hold an annual hearing, rather than to require the board, before March 31 of each year, to hold a hearing, to determine the effects during the preceding calendar year of groundwater withdrawal on subsidence in the district.

SECTION 7. Amends Section 8834.115, Special District Local Laws Code, as follows:

Sec. 8834.115. NOTICE OF HEARINGS. (a) Requires the district, not later than the 10th day before the date set for a hearing other than a permit application hearing, to deliver or mail notice of the hearing to:

(1) each county, regional water supplier and municipal government in the district; and

(2) each person that the board considers to have an interest in the subject matter of the hearing.

(b) Requires the district, not later than the 10th day before the date set for a hearing, to:

(1) publish notice of the hearing once in a newspaper of general circulation in each county in the district; and

(2) provide a copy of the notice of the hearing to the county clerk to be posted at the county courthouse of each county, rather than post notice of the hearing at the county courthouse of each county, in the district in the place where notices are usually posted.

SECTION 8. Amends Subchapter D, Chapter 8834, Special District Local Laws Code, by adding Section 8834.158, as follows:

Sec. 8834.158. INVESTMENT OFFICER. (a) Authorizes the board, notwithstanding Section 2256.005(f) (relating to requiring each investing entity to designate one or more officers of the state agency as investment officers with certain 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 9. Amends Section 8834.201, Special District Local Laws Code, as follows:

Sec. 8834.201. GROUNDWATER WITHDRAWALS SUBJECT TO BOARD RULE.

(a) Creates this subsection from existing text. Makes no further change to this subsection.

(b) Authorizes the board to issue permits to drill new wells and by rule to 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 retail public utility is not available to the lot where the well is to be located.

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

SECTION 10. Amends Section 8834.202, Special District Local Laws Code, as follows:

Sec. 8834.202. New heading: CERTAIN GROUNDWATER USES EXEMPT. Provides that the permit requirements of this chapter do not apply, rather than this chapter does not apply, to certain wells listed in existing law.

SECTION 11. Amends Sections 8834.206(a) and (c), Special District Local Laws Code, as follows:

(a) Requires a well owner, rather than the owner of a well located in the district, to obtain a permit from the board before certain operations of the well listed in existing law.

(c) Provides that a well owner, rather than an owner or operator, commits a violation if the well owner, rather than the owner or operator, does not obtain a permit as required by Subsection (a).

SECTION 12. Amends Section 8834.209(c), Special District Local Laws Code, to require the board to issue a permit to an applicant if the board finds on sufficient evidence that there is no other adequate and available substitute or supplemental source of alternative water supplies, rather than source of surface water, at prices competitive with the prices charged by suppliers of alternative water supplies, rather than source of surface water, in the district.

SECTION 13. Amends Section 8834.214, Special District Local Laws Code, as follows:

Sec. 8834.214. ANNUAL REPORT. (a) Creates this subsection from existing text. Requires a well owner who is required to hold a permit, rather than holds a permit, under this chapter, before January 31 each year, to submit to the board a report stating the well owner's name, the location of the well, the total amount of groundwater withdrawn from the well during the preceding calendar year, rather than during the preceding 12-month period, the total amount of groundwater withdrawn from the well during each month of the preceding calendar year, rather than the preceding 12-month period, the purpose for which the groundwater was used, and any other information required by the board that the board considers necessary for the board to control and prevent subsidence in the district.

(b) Requires a well owner whose well is aggregated with other wells permitted and managed by a regional water supplier to file the report required by Subsection (a) with the regional water supplier instead of the district. Requires a regional water supplier to submit to the board the report required by Subsection (a) for all wells owned, managed, or permitted by that supplier not later than March 31 each year.

SECTION 14. Requires an investment officer for the Fort Bend Subsidence District who holds that office on the effective date of this Act to attend the training required by Section 8834.158(b)(1), Special District Local Laws, as added by this Act, not later than the first anniversary of the effective date of this Act unless that person has already taken the training during the previous calendar year.

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 the members elected to each house; otherwise, this Act takes effect September 1, 2013.