

BILL ANALYSIS

C.S.H.B. 3163
By: Cyrier
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that groundwater conservation districts are the state's preferred method of groundwater management and that the management of groundwater within a district involves complicated and controversial issues. The parties further note that sharply divergent viewpoints and expectations may sometimes arise and that lawsuits against districts and district directors have become a reality in this occasionally charged atmosphere. The parties assert that community volunteers who become public servants as district directors must engage in decision-making on behalf of a district free from intimidation and that exposure to claims of personal liability as a result of a decision constitutes a prior restraint on the faithful performance of a director and may even have a chilling effect on the willingness of citizens to serve as directors. C.S.H.B. 3163 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 3163 amends the Water Code to establish that for liability purposes only a director of a groundwater conservation district is considered a district employee under the Texas Tort Claims Act even if the director does not receive fees of office voluntarily, by district policy, or through a statutory exception. The bill grants a director immunity from suit and immunity from liability for official votes and official actions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3163 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

SECTION 1. Section 36.066(a), Water Code, is amended to read as follows:

(a) A district may sue and be sued in the courts of this state in the name of the district by and through its board. A district board member acting in his individual capacity is immune from suit and liability for actions taken on behalf of the board. All courts shall take judicial notice of the creation of the district and of its boundaries.

SECTION 2. Section 36.066, Water Code, is amended by adding a new Subsection (h) to read as follows:

(h) An attempt to bring suit against an individual district board member for actions taken on behalf of the board or for an official vote shall constitute coercion of a public official as defined in Texas Penal Code Section 36.03(1)

SECTION 3. 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, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 36.060, Water Code, is amended by adding Subsection (e) to read as follows:

(e) For liability purposes only, a director is considered a district employee under Chapter 101, Civil Practice and Remedies Code, even if the director does not receive fees of office voluntarily, by district policy, or through a statutory exception to this section.

SECTION 2. Section 36.066(a), Water Code, is amended to read as follows:

(a) A district may sue and be sued in the courts of this state in the name of the district by and through its board. A district board member is immune from suit and immune from liability for official votes and official actions. All courts shall take judicial notice of the creation of the district and of its boundaries.

No equivalent provision.

SECTION 3. Same as introduced version.