

BILL ANALYSIS

C.S.H.B. 922
By: Workman
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that certain land located in Travis County would benefit from the creation of a groundwater conservation district to manage and conserve groundwater. C.S.H.B. 922 seeks to provide for such a district.

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. 922 amends the Special District Local Laws Code to create the Southwestern Travis County Groundwater Conservation District. The bill establishes that an election to confirm the creation of the district is not required and provides for, among other provisions, temporary and initial directors of the district and the composition of the district's board of directors. The bill authorizes the district to implement and develop aquifer storage and recovery projects in accordance with the Injection Well Act, Water Code provisions governing groundwater conservation districts, and Texas Commission on Environmental Quality rules and guidance. The bill requires a well owner to obtain a permit and pay any required fees before using any groundwater withdrawn from a well and provides for certain exempt wells.

C.S.H.B. 922 sets out provisions relating to property access by an employee or agent of the district. The bill authorizes the district to charge and collect a new well construction fee capped at \$1,000 for a new well and a permit renewal application fee capped at \$400. The bill authorizes the district to levy and collect a water utility service connection fee capped at \$1,000 for each new water service connection made after September 1, 2017, and exempts a water utility that has surface water as its sole source of water from such a fee. The bill authorizes the district to impose reasonable production fees on each nonexempt well based on the amount of water actually withdrawn from the well capped at 20 cents per thousand gallons. The bill authorizes the district to set a reasonable fee for administrative management on a per well basis. The bill authorizes the district to set a fee for administrative management on a well used solely for domestic or livestock purposes in an amount capped at \$15 per well per year and on a well that is exempt from permitting and that is not used solely for domestic or livestock purposes in an amount capped at \$50 per well per year. The bill prohibits the district from charging certain fees and from exercising the power of eminent domain and provides for a limitation on the district's authority to impose taxes.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 922 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

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. The legislature finds that:

SECTION 1. Same as introduced version.

(1) creation of the Southwestern Travis County Groundwater Conservation District:

(A) is consistent with the state's preferred method of groundwater management;

(B) will protect property rights, balance the development and conservation of groundwater with the needs of this state, and use the best available science in the area of groundwater through rules developed, adopted, and promulgated by the district in accordance with the provisions of Chapter 8871, Special District Local Laws Code, as added by this Act; and

(C) will be a benefit to the land in the district and a public benefit and utility;

(2) the district is created to:

(A) protect the interests of private property ownership while balancing the interests of all property owners in the district;

(B) manage groundwater resources; and

(C) protect the groundwater in the district;

(3) although a property owner of land in the district is not entitled to an equal amount of water as another property owner of land in the district, a property owner does have a vested ownership interest in the groundwater beneath the owner's property, and the district shall recognize that ownership interest; and

(4) the Southwestern Travis County Groundwater Conservation District is not created to prohibit or restrict development of private property in the district.

SECTION 2. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8871 to read as follows:

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CHAPTER 8871. SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT

CHAPTER 8871. SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8871.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Commission" means the Texas Commission on Environmental Quality.
- (3) "Director" means a board member.
- (4) "District" means the Southwestern Travis County Groundwater Conservation District.
- (5) "Executive director" means the executive director of the Texas Commission on Environmental Quality.

Sec. 8871.002. NATURE OF DISTRICT.

Sec. 8871.003. FINDINGS OF PUBLIC USE AND BENEFIT.

Sec. 8871.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 3 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 3 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond; or
- (3) legality or operation.

Sec. 8871.005. CONFIRMATION ELECTION NOT REQUIRED.

SUBCHAPTER B. TEMPORARY AND INITIAL DIRECTORS

Sec. 8871.021. APPOINTMENT OF TEMPORARY DIRECTORS; VACANCIES; TERMS. (a) Seven persons who reside in the district shall be appointed as temporary directors not later than the 90th day after the effective date of the Act creating this chapter as follows:

- (1) the county judge of Travis County shall appoint one temporary director;
- (2) the county commissioner for the county

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Sec. 8871.002. NATURE OF DISTRICT.

Sec. 8871.003. FINDINGS OF PUBLIC USE AND BENEFIT.

Sec. 8871.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 3 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 3 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
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Sec. 8871.005. CONFIRMATION ELECTION NOT REQUIRED.

SUBCHAPTER B. TEMPORARY AND INITIAL DIRECTORS

Sec. 8871.021. APPOINTMENT OF TEMPORARY DIRECTORS; VACANCIES; TERMS. (a) Seven persons who reside in the district shall be appointed as temporary directors not later than the 90th day after the effective date of the Act creating this chapter as follows:

- (1) the county judge of Travis County shall appoint one temporary director;
- (2) the county commissioner for the county

commissioners precinct in which the district is located shall appoint two temporary directors;

(3) the state representative who represents the house district in which the district is principally located shall appoint two temporary directors; and

(4) the state senator who represents the senate district in which the district is principally located shall appoint two temporary directors.

(b) If a temporary director fails to qualify for office or a vacancy occurs on the temporary board, the remaining temporary directors shall appoint a person to fill the vacancy. If at any time there are fewer than four temporary directors, the state representative under Subsection (a)(3) shall appoint the necessary number of persons to fill all vacancies on the board.

(c) Temporary directors serve until the date initial directors are elected at an election held under Section 8871.024.

Sec. 8871.022. ORGANIZATIONAL MEETING.

Sec. 8871.023. AUTHORITY OF TEMPORARY DIRECTORS.

Sec. 8871.024. INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall order an election in the district to be held not later than the uniform election date in November 2019 to elect the initial directors.

(b) At the initial directors' election, the temporary board shall have placed on the ballot the names of the candidates who are eligible under Section 8871.051 for each of the seven positions on the board.

(c) Section 41.001(a), Election Code, applies to an election held under this section.

(d) Except as provided by this section, the initial directors' election must be conducted as provided by the Election Code and Sections 36.017(b), (c), and (e), Water Code.

Sec. 8871.025. INITIAL DIRECTORS.

SUBCHAPTER C. BOARD OF DIRECTORS

commissioners precinct in which the district is principally located shall appoint two temporary directors;

(3) the state representative who represents the house district in which the district is principally located shall appoint two temporary directors; and

(4) the state senator who represents the senate district in which the district is principally located shall appoint two temporary directors.

(b) If a temporary director fails to qualify for office or a vacancy occurs on the temporary board, the remaining temporary directors shall appoint a person to fill the vacancy. If at any time there are fewer than four temporary directors, the state representative under Subsection (a)(3) shall appoint the necessary number of persons to fill all vacancies on the board.

(c) Temporary directors serve until the date initial directors are elected at an election held under Section 8871.024.

Sec. 8871.022. ORGANIZATIONAL MEETING.

Sec. 8871.023. AUTHORITY OF TEMPORARY DIRECTORS.

Sec. 8871.024. INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall order an election in the district to be held not later than the uniform election date in May 2018 to elect the initial directors.

(b) At the initial directors' election, the temporary board shall have placed on the ballot the names of the candidates who are eligible under Section 8871.051 for each of the seven positions on the board.

(c) Section 41.001(a), Election Code, applies to an election held under this section.

(d) Except as provided by this section, the initial directors' election must be conducted as provided by the Election Code and Sections 36.017(b), (c), and (e), Water Code.

Sec. 8871.025. INITIAL DIRECTORS.

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 8871.051. GOVERNING BODY; TERMS.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 8871.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES.

Sec. 8871.102. AQUIFER STORAGE AND RECOVERY PROJECTS. The district may implement and develop aquifer storage and recovery projects.

Sec. 8871.103. EXEMPT WELLS. (a) Groundwater withdrawals from the following wells may not be regulated, permitted, or metered by the district:

(1) a well used for domestic use by a single private residential household and incapable of producing more than 10,000 gallons per day; and

(2) a well used for conventional farming and ranching activities, including intensive operations such as aquaculture, livestock feedlots, or poultry operations.

(b) The district may not charge or collect a well construction fee for a well described by Subsection (a)(2).

(c) A well used for dewatering and monitoring in the production of coal or lignite is exempt from permit requirements, regulations, and fees imposed by the district.

Sec. 8871.104. PERMIT REQUIRED.

Sec. 8871.105. ACCESS TO PROPERTY.

(a) An employee or agent of the district:

(1) may not enter property to inspect an exempt well without the property owner's permission; and

(2) may request that the commission obtain the permission of the property owner to enter the owner's property to inspect an exempt well.

(b) Subject to Subsection (c), an employee

Sec. 8871.051. GOVERNING BODY; TERMS.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 8871.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES.

Sec. 8871.102. AQUIFER STORAGE AND RECOVERY PROJECTS. The district may implement and develop aquifer storage and recovery projects in accordance with:

(1) Chapters 27 and 36, Water Code; and

(2) commission rules and guidance.

Sec. 8871.103. EXEMPT WELLS. (a) Groundwater withdrawals from the following wells may not be regulated, permitted, or metered by the district:

(1) a well used for domestic use by a single private residential household and incapable of producing more than 10,000 gallons per day; and

(2) a well used solely for domestic use or for providing water for livestock or poultry if the well is:

(A) located or to be located on a tract of land larger than 10 acres; and

(B) drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day.

(b) The district may not charge or collect a well construction fee for a well described by Subsection (a)(2).

(c) A well used for dewatering and monitoring in the production of coal or lignite is exempt from permit requirements, regulations, and fees imposed by the district.

Sec. 8871.104. PERMIT REQUIRED.

Sec. 8871.105. ACCESS TO PROPERTY.

(a) Subject to Subsection (b), an employee or agent of the district

or agent of the commission is entitled to enter public or private property in the district at any reasonable time to:

- (1) inspect an exempt well;
- (2) inspect and investigate conditions relating to the quality of water in the state; and
- (3) monitor compliance with any rule, regulation, permit, or other order of the district or the commission.

(c) An employee or agent of the commission shall obtain the permission of the property owner before entering public or private property.

(d) An employee or agent of the commission is entitled to enter public or private property in the district at any reasonable time without obtaining the permission of the property owner:

- (1) if the property owner is not responsive to the commission's attempt to obtain the owner's permission; or
- (2) to remove or remediate a condition related to the quality of water in the state if there is an immediate danger to public health or the environment.

(e) If any employee or agent of the commission is refused the right to enter public or private property in the district under this section, the executive director may seek a court order from a district court authorizing the commission to enter the land.

(f) An employee or agent who enters private property under this section shall:

- (1) observe the property's rules and regulations, if any, concerning safety, internal security, and fire protection;
- (2) notify management or a person in charge of the presence of the employee or agent; and
- (3) exhibit proper credentials.

Sec. 8871.106. NO EMINENT DOMAIN POWER.

SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 8871.151. WELL CONSTRUCTION FEE.

Sec. 8871.152. PERMIT RENEWAL APPLICATION FEE.

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- (1) inspect an exempt well;
- (2) inspect and investigate conditions relating to the quality of water in the state; and
- (3) monitor compliance with any rule, regulation, permit, or other order of the district.

(b) An employee or agent of the district must obtain the permission of the property owner before entering public or private property.

(c) If any employee or agent of the district is refused the right to enter public or private property in the district under this section, the district may seek a court order from a district court authorizing the district to enter the land.

(d) An employee or agent who enters private property under this section shall:

- (1) observe the property's rules and regulations, if any, concerning safety, internal security, and fire protection;
- (2) notify management or a person in charge of the presence of the employee or agent; and
- (3) exhibit proper credentials.

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SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 8871.151. WELL CONSTRUCTION FEE.

Sec. 8871.152. PERMIT RENEWAL APPLICATION FEE.

Sec. 8871.153. SERVICE CONNECTION FEE.

Sec. 8871.154. PRODUCTION FEE. The district may impose reasonable production fees on each well that is not exempt from permitting under Section 8871.103 based on the amount of water actually withdrawn from the well. The district may not impose a production fee under this section in an amount greater than 10 cents per thousand gallons.

Sec. 8871.155. TAXES AND OTHER FEES PROHIBITED. The district may not:
(1) impose a tax; or
(2) assess or collect any fees except as authorized by Section 8871.151, 8871.152, 8871.153, or 8871.154.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 3. The Southwestern Travis County Groundwater Conservation District initially includes all the territory contained in the following area:
THE TERRITORY OF THE SOUTHWEST TRAVIS COUNTY PORTION OF THE HILL COUNTRY PRIORITY GROUNDWATER MANAGEMENT AREA - AS DESCRIBED BY 2010 TCEQ

Sec. 8871.153. SERVICE CONNECTION FEE.

Sec. 8871.154. PRODUCTION FEE. The district may impose reasonable production fees on each well that is not exempt from permitting under Section 8871.103 based on the amount of water actually withdrawn from the well. The district may not impose a production fee under this section in an amount greater than 20 cents per thousand gallons.

No equivalent provision.

Sec. 8871.155. ADMINISTRATIVE MANAGEMENT FEE. The district may set a reasonable fee for administrative management on a per well basis. The district may set a fee for administrative management on:
(1) a well used solely for domestic or livestock purposes in an amount not greater than \$15 per well, per year; and
(2) a well that is exempt from permitting and that is not used solely for domestic or livestock purposes in an amount not greater than \$50 per well, per year.

Sec. 8871.156. CERTAIN FEES PROHIBITED. The district may not charge a fee under Section 36.205(b), (c), or (f), Water Code.

Sec. 8871.157. LIMITATION ON AUTHORITY TO IMPOSE TAXES. The district does not have the authority granted by Sections 36.020 and 36.201-36.204, Water Code, relating to taxes.

SECTION 3. Same as introduced version.

REPORT; "The southwestern Travis territory is located in the southwestern quarter of Travis County. The southwestern Travis territory is bound to the west by Blanco and Burnet counties, southwest by Hays County, and southeast by the northwestern boundary of the Barton Springs/Edwards Aquifer Conservation District (BS/EACD). The northern boundary of the southwestern Travis territory is the Colorado River (Lake Travis, Lake Austin, and Lady Bird Lake)."

SECTION 4. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and 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 5. This Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.