

BILL ANALYSIS

C.S.H.B. 3166
By: Lucio III
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that groundwater conservation districts should consider additional information before voting on proposed desired future conditions of the relevant aquifers within the management area. C.S.H.B. 3166 seeks to address this issue by providing for the consideration of modeled sustainable groundwater pumping.

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. 3166 amends the Water Code to include modeled sustainable groundwater pumping as provided by the executive administrator of the Texas Water Development Board for each aquifer in the management area among the hydrological conditions groundwater conservation districts are required to consider before voting on the proposed desired future conditions of the relevant aquifers within the management area. The bill prohibits the executive administrator from calculating the modeled sustainable groundwater pumping for an aquifer located in a management area that wholly or partly overlies an aquifer with a recharge rate such that an owner of land that overlies the aquifer qualifies under federal tax law for a cost depletion deduction for the groundwater withdrawn from the aquifer for irrigation purposes. The bill defines "modeled sustainable groundwater pumping" as the maximum amount of groundwater that the executive administrator determines may be produced in perpetuity from an aquifer on an annual basis using the best available science.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3166 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

SECTION 1. Section 36.001, Water Code, is amended.

SECTION 2. Section 36.108(d), Water Code, is amended to read as follows:

(d) Not later than September 1, 2010, and every five years thereafter, the districts shall consider groundwater availability models and other data or information for the management area and shall propose for adoption desired future conditions for the relevant aquifers within the management area. Before voting on the proposed desired future conditions of the aquifers under Subsection (d-2), the districts shall consider:

- (1) aquifer uses or conditions within the management area, including conditions that differ substantially from one geographic area to another;
- (2) the water supply needs and water management strategies included in the state water plan;
- (3) hydrological conditions, including for each aquifer in the management area the total estimated recoverable storage and modeled sustainable groundwater pumping as provided by the executive administrator, and the average annual recharge, inflows, and discharge;
- (4) other environmental impacts, including impacts on spring flow and other interactions between groundwater and surface water;
- (5) the impact on subsidence;
- (6) socioeconomic impacts reasonably expected to occur;
- (7) the impact on the interests and rights in private property, including ownership and the rights of management area landowners and their lessees and assigns in groundwater as recognized under Section 36.002;
- (8) the feasibility of achieving the desired future condition; and
- (9) any other information relevant to the specific desired future conditions.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 36.108, Water Code, is amended by amending Subsection (d) and adding Subsection (d-6) to read as follows:

(d) Not later than September 1, 2010, and every five years thereafter, the districts shall consider groundwater availability models and other data or information for the management area and shall propose for adoption desired future conditions for the relevant aquifers within the management area. Before voting on the proposed desired future conditions of the aquifers under Subsection (d-2), the districts shall consider:

- (1) aquifer uses or conditions within the management area, including conditions that differ substantially from one geographic area to another;
- (2) the water supply needs and water management strategies included in the state water plan;
- (3) hydrological conditions, including for each aquifer in the management area the total estimated recoverable storage and modeled sustainable groundwater pumping as provided by the executive administrator, and the average annual recharge, inflows, and discharge;
- (4) other environmental impacts, including impacts on spring flow and other interactions between groundwater and surface water;
- (5) the impact on subsidence;
- (6) socioeconomic impacts reasonably expected to occur;
- (7) the impact on the interests and rights in private property, including ownership and the rights of management area landowners and their lessees and assigns in groundwater as recognized under Section 36.002;
- (8) the feasibility of achieving the desired future condition; and
- (9) any other information relevant to the specific desired future conditions.

(d-6) Notwithstanding Subsection (d)(3), the executive administrator may not calculate the modeled sustainable groundwater pumping for an aquifer located in a management area that wholly or partly

overlies an aquifer with a recharge rate such that an owner of land that overlies the aquifer qualifies under federal tax law for a cost depletion deduction for the groundwater withdrawn from the aquifer for irrigation purposes.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.