

## **BILL ANALYSIS**

C.S.S.B. 152  
By: Perry  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been suggested that greater transparency and better landowner protection could be provided with respect to groundwater conservation districts. C.S.S.B. 152 seeks to address this issue by providing for a petition to change district rules, for updated management plans, and for notice to certain applications.

### **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.S.B. 152 amends the Water Code to authorize a person with a real property interest in groundwater to petition the groundwater conservation district where the property that gives rise to the real property interest is located to adopt or modify a rule. The bill requires the district by rule to prescribe the form for the petition and the procedure for the petition's submission, consideration, and disposition. The bill requires the district, not later than the 90th day after the date the district receives the petition, to do the following:

- deny the petition and provide an explanation for the denial; or
- engage in rulemaking consistent with the granted petition.

The bill prohibits these provisions of the bill from being construed to create a private cause of action for a decision to accept or deny a petition. The bill requires a district, not later than December 1, 2021, to adopt rules to implement these provisions of the bill.

C.S.S.B. 152 requires a district's management plan, or any amendments to the plan, to include the following:

- the most recently approved desired future conditions; and
- the amount of modeled available groundwater corresponding to those desired future conditions.

The bill requires a district to amend a management plan before the second anniversary of the adoption of the most recently approved desired future conditions. The bill requires the executive administrator of the Texas Water Development Board, if a petition challenging the reasonableness of a desired future condition is filed, to consider the management plan administratively complete if the district includes the following:

- the most recently approved desired future conditions;
- the amount of modeled available groundwater corresponding to the desired future conditions;

- a statement of the status of the petition challenging the reasonableness of a desired future condition; and
- prescribed information.

C.S.S.B. 152 requires a district that has adopted rules regulating the spacing of wells that require wells to be spaced a certain distance from other wells to adopt rules requiring that notice of an application for a permit or permit amendment to drill a well or increase the production capacity of an existing well be provided to each landowner whose land is located wholly or partly within the spacing distances from other wells under the district's spacing rules and whose right to obtain a permit or permit amendment for a well of a certain size or location under the district's spacing rules will be affected if the district approves the application. The bill establishes that a district is not required to adopt rules requiring notice for certain replacement or emergency wells or if the notice is to be provided to certain lessors or the district posts in a certain manner certain information at the district's main office and, if applicable, on its website.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 152 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute does not include provisions included in the engrossed that provide the following with respect to the requirement that a court grant a groundwater conservation district recovery for attorney's fees and applicable costs sought by the district in relation to a suit in which the district prevails but did not voluntarily intervene:

- the court is authorized, rather than required, to grant such fees and costs; and
- specified provisions relating to the awarding of such fees and costs prevailing over any other special law inconsistent with those provisions unless the other law prohibits an award of the fees or costs.

The substitute differs from the engrossed by specifying that, with respect to the bill's requirement that certain districts adopt rules requiring that notice of an application for a permit or permit amendment to drill a well or increase the production capacity of an existing well be provided to certain landowners, a district is not required to adopt rules requiring notice for certain wells or certain conditions, whereas the engrossed specified that notice is not required for those wells or those conditions.