

## **BILL ANALYSIS**

C.S.H.B. 4256  
By: Murr  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Leaking water wells can pose a significant risk to both human and animal health. If left unchecked, leaking wells have the potential to contaminate groundwater or navigate to the surface creating polluted surface bodies of water, such as Lake Boehmer. C.S.H.B. 4256 seeks to require the Texas Commission on Environmental Quality to establish and administer a leaking water wells program to provide grants to permanently plug qualifying wells.

### **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 rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 4256 amends the Water Code to create the leaking water wells fund as a fund in the state treasury outside the general revenue fund and to require the Texas Commission on Environmental Quality (TCEQ) to establish and administer the leaking water wells program to plug leaking water wells. The bill's provisions apply only to an applicable water district in a county that has a population of 16,000 or less and is adjacent to at least seven counties with populations of less than 15,000. The bill requires the TCEQ to provide grants under the program to districts for eligible projects to offset the cost of plugging leaking water wells and requires an applicable district, to be eligible for a grant, to demonstrate that the project includes a leaking water well that meets the following criteria:

- the well either:
  - is located within 2,000 feet of a drinking water well, a water well for livestock or irrigation, or a sensitive wildlife area; or
  - has seasonal or annual flow to the surface or a hydrological connection to surface water; and
- the plug, casing, completion interval, or general integrity of the well is known by the district to be deficient or the completion interval of the well is sufficiently proximate to other known intervals or pressurized zones with high concentrations of hazardous or toxic components.

The bill also requires the district to do the following for purposes of grant eligibility:

- obtain any necessary approvals from a surface owner for access to the property where the leaking water well is located; and
- as necessary, engage in a bid process to select and hire a contractor or subcontractor to perform the work.

The bill requires that a contract for work on a project for which a grant is provided to be awarded to a contractor or subcontractor selected from a list of approved well pluggers maintained by the Railroad Commission of Texas (RRC) and authorizes such a contract to be awarded to the contractor or subcontractor whose bid or proposal the grant recipient determines provides the best value for the recipient based on the selection criteria published by the recipient.

C.S.H.B. 4256 authorizes an applicable water district to apply for and receive a program grant and provides for an application's form and contents, as provided by the TCEQ. The bill requires the TCEQ to establish by rule criteria for prioritizing projects eligible to receive a program grant.

C.S.H.B. 4256 restricts the use of a program grant to the payment of the cost of the project for which the grant is provided and prohibits a grant recipient from using the grant to pay administrative costs associated with the project. The bill requires a leaking water well plugged under the program to be permanently plugged and requires the TCEQ, in consultation with the RRC, to establish criteria for ensuring that a well is permanently plugged. The bill requires the amount of a grant that is not spent for the completion of a project to be returned to the TCEQ for deposit to the credit of the leaking water wells fund.

C.S.H.B. 4256 provides for the amount of \$40 million to be appropriated from the general revenue fund to the comptroller of public accounts for the transfer of that amount immediately to the credit of the leaking water wells fund. The bill establishes that the leaking water wells fund consists of money appropriated, credited, or transferred to the fund by the legislature, gifts or grants contributed to the fund, and interest earned on deposits and investments of the fund. The bill restricts the use of the fund to the implementation of the leaking water wells program, including the costs of program administration and operation. The bill exempts interest earned on money deposited to the credit of the fund from statutory provisions relating to the disposition of interest by the comptroller and requires earned interest to be retained in the fund.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

#### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 4256 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced made the bill's provisions applicable to a district in a county that has a population of not more than 16,000 and is adjacent to at least seven counties with populations of less than 12,000, the substitute makes those provisions applicable to a district in a county that has a population of 16,000 or less and is adjacent to at least seven counties with populations of less than 15,000.

The substitute includes provisions that were not in the introduced that authorize an applicable contract to be awarded to the contractor or subcontractor whose bid or proposal the grant recipient determines provides the best value.

The substitute does the following with regard to the leaking water wells fund:

- omits a requirement present in the introduced for the comptroller to make a one-time transfer of \$18,500,000 from the Economic Stabilization Fund, otherwise known as the Rainy Day Fund, to the credit of the leaking water wells fund;
- provides instead for the appropriation of \$40 million from the general revenue fund to the comptroller for transfer to the leaking water wells fund, which was not in the introduced;
- specifies the components of the fund, which the introduced did not do; and

- requires that any funds not used by the recipient on a project to be returned to the TCEQ for deposit to the credit of the fund, whereas the introduced only directed the unused funds to be returned to the fund.