

BILL ANALYSIS

Senate Research Center

S.B. 1080
By: Kolkhorst
Water, Agriculture & Rural Affairs
5/29/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Lost Pines Groundwater Conservation District (district) was created by the legislature to protect the groundwater supply of Bastrop and Lee Counties.

Key Provisions:

- Enables the district to establish a mitigation program to address excessive drawdown in an aquifer or subdivision of an aquifer where the potentiometric surface is below the desired future condition or has resulted in wells having become more non-productive.
- The district may fund this program by utilizing pumping fees, export fees, or any other revenue available to the district.
- This may be carried out by reducing groundwater production within the aquifer or subdivision of the aquifer or by providing reimbursement for the cost of repairing wells to access groundwater below the potentiometric surface of the aquifer or subdivision of the aquifer.

Committee Substitute Changes

- The substitute offers a Legislative Council version which clarifies that reimbursements can be used for replacement of wells in addition to repairs.

S.B. 1080 amends current law relating to a mitigation program and fees for the Lost Pines Groundwater Conservation District.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 8849, Special District Local Laws Code, by adding Section 8849.107, as follows:

Sec. 8849.107. MITIGATION PROGRAM. (a) Requires the Lost Pines Groundwater Conservation District (district) by rule adopted in accordance with Section 36.101 (Rulemaking Power), Water Code, to establish a mitigation program to address excessive drawdown of an aquifer or subdivision of an aquifer in the district that results in:

- (1) the potentiometric surface being below a desired future condition; or
- (2) nonproductive wells.

(b) Authorizes a mitigation program established under this section, in order to provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharge, and prevention of waste of groundwater and control of subsidence, to provide reimbursement for the cost of repairing or replacing wells described by Section 36.117(b)(1) (relating to requiring a district to provide an exemption from the district requirement to obtain a permit for drilling or operating a well used solely for domestic use or for providing water for livestock or poultry if the well meets

certain criteria), Water Code, to access groundwater below the potentiometric surface of the aquifer or subdivision of an aquifer that is the subject of the program.

(c) Requires the district to offer to enter into a reciprocal agreement with an adjacent groundwater conservation district or a groundwater conservation district located in Groundwater Management Area 12 to support a jointly managed mitigation program. Authorizes the district to fund the mitigation program with production fees, export fees, or any other revenue available to the district.

SECTION 2. Amends Section 8849.151, Special District Local Laws Code, as follows:

Sec. 8849.151. New heading: FEES. (a) Authorizes the district to assess production fees under Section 36.205(c) (relating to authorizing a district to assess production fees based on the amount of water authorized by permit to be withdrawn from a well or the amount actually withdrawn), Water Code, and export fees under Section 36.122 (Transfer of Groundwater Out of District), Water Code. Deletes existing text authorizing the district to assess regulatory pumping fees for water produced in or exported from the district.

(b) Makes a conforming change to this subsection.

(c) Prohibits production fees, rather than regulatory pumping fees based on the amount of water withdrawn from a well, from exceeding certain amounts.

Deletes existing Subsection (d) prohibiting combined regulatory pumping fees for production and export of water from exceeding 17 cents for each thousand gallons for water used.

SECTION 3. Provides that mitigation payments and fees assessed before the effective date of this Act are ratified, confirmed, and validated in all respects.

SECTION 4. Effective date: upon passage or September 1, 2023.