

BILL ANALYSIS

C.S.S.B. 1080
By: Kolkhorst
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Lost Pines Groundwater Conservation District was created by the Texas Legislature to protect the groundwater supply of Bastrop and Lee Counties. There is a need for the district to establish a mitigation program to address excessive drawdown of an aquifer or subdivision of an aquifer where the potentiometric surface is below the desired future condition or has resulted in wells becoming nonproductive. C.S.S.B. 1080 seeks to rectify this issue by authorizing the district to establish such a mitigation program that addresses the drawdown and that may provide reimbursement for the cost of repairing or replacing certain wells to access groundwater below the potentiometric surface of the aquifer or subdivision of the aquifer.

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. 1080 amends the Special District Local Laws Code to authorize the Lost Pines Groundwater Conservation District by rule, adopted in accordance with statutory provisions governing the rulemaking power of groundwater conservation districts, to establish a mitigation program to address excessive drawdown of an aquifer or subdivision of an aquifer in the district that results in the potentiometric surface being below a desired future condition or in nonproductive wells. 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, the program may provide reimbursement for the cost of repairing or replacing certain wells, used solely for domestic use or for providing water for livestock or poultry, to access groundwater below the potentiometric surface of the aquifer or subdivision that is the subject of the program. The bill authorizes the district to enter into a reciprocal agreement with an adjacent groundwater conservation district or a district located in Groundwater Management Area 12 to allow the transfer of groundwater rights in a district for production and use in another district or to support a jointly managed mitigation program. The bill authorizes the district to fund the program with production fees, export fees, or any other revenue available to the district.

C.S.S.B. 1080 replaces the authorization for the district to assess regulatory pumping fees generally for water produced in or exported from the district with a specific authorization for the district to assess the following:

- production fees based on the amount of water authorized by permit to be withdrawn from a well or the amount actually withdrawn; and
- export fees for the transfer of groundwater outside of the district's boundaries.

With regard to the prohibition against district regulatory pumping fees exceeding \$1 for each acre-foot for water used to irrigate agricultural crops or 17 cents for each thousand gallons for water used for any other purpose, the bill restricts the applicability of that prohibition to production fees and removes the specification that the fees be based on the amount of water withdrawn from a well. The bill removes the prohibition against combined regulatory pumping fees for production and export of water from exceeding 17 cents for each thousand gallons for water used.

C.S.S.B. 1080 establishes that mitigation payments and fees assessed before the bill's effective date are ratified, confirmed, and validated in all respects.

EFFECTIVE DATE

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

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1080 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.

Both the engrossed and the substitute provide for the district to establish a mitigation program for specified purposes. However, the authority granted to the district with respect to the program differs between the two versions. The engrossed authorized the program to reduce groundwater production from the aquifer or subdivision of an aquifer that is the subject of the program. The substitute omits this authorization and includes provisions absent from the engrossed that instead do the following:

- specify that the purposes for which the program may provide reimbursement for the cost of repairing and replacing certain wells are 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;
- specify that such wells are certain wells used solely for domestic use or for providing water for livestock or poultry; and
- authorize the district to enter into a reciprocal agreement with an adjacent groundwater conservation district or a district located in Groundwater Management Area 12 to allow the transfer of groundwater rights in a district for production and use in another district or to support a jointly managed mitigation program.