

BILL ANALYSIS

Senate Research Center
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S.B. 43
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Disaster Preparedness & Flooding, Select
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Plum Creek Conservation District was formed in 1957 by the Texas Legislature for the purpose of flood control. During the 1960s and 1970s, twenty-eight flood control structures were built on the tributaries of Plum Creek in Hays and Caldwell counties by the former U.S. Soil Conservation Service (SCS), now known as the Natural Resources Conservation Service (NRCS), a division of the U.S. Department of Agriculture (USDA). The flood control structures, which are monitored, operated, and maintained by the district, catch and store flood waters during normal and extreme rain events and then release those waters downstream at an engineered rate.

Texas long has engaged in flood prevention strategies, including construction of flood control ponds in historically rural areas across the state. Permitting is a long and thorough process, taking up to a year.

S.B. 43 would enable a qualified district sponsor to use a permit exemption either to divert water from the reservoir as needed for the limited purpose of using the water to repair, maintain, or rehabilitate the dam or reservoir; or to construct or maintain on property owned or controlled by the sponsor, a storage facility of not more than 200 acre feet of water for the purposes of erosion, floodwater, and sediment control. By allowing a permit exemption, the dam and surrounding natural infrastructure can be maintained in a timely manner.

As proposed, S.B. 43 amends current law relating to an exemption from the requirement to obtain a permit from the Texas Commission on Environmental Quality for certain dams or reservoirs operated and maintained for the purposes of erosion, floodwater, and sediment control.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.121, Water Code, to create an exception under Section 11.1423.

SECTION 2. Amends Subchapter D, Chapter 11, Water Code, by adding Section 11.1423, as follows:

Sec. 11.1423. PERMIT EXEMPTION FOR CERTAIN DAMS OR RESERVOIRS FOR EROSION, FLOODWATER, AND SEDIMENT CONTROL. (a) Defines "qualified local sponsor."

(b) Authorizes a qualified local sponsor, without obtaining a permit, to construct or maintain on property owned or controlled by the qualified local sponsor a dam or reservoir with normal storage of not more than 200 acre-feet of water for the purposes of erosion, floodwater, and sediment control and divert water from the dam or reservoir as needed in order to repair, maintain, or rehabilitate the

impoundment and associated works of improvement so as to maintain the operational integrity and purpose of the dam or reservoir.

(c) Provides that the termination of an agreement between a qualified local sponsor and the United States Department of Agriculture's Natural Resources Conservation Service does not affect the exemption described by Subsection (b), provided that the dam or reservoir continues to be owned or controlled by the qualified local sponsor for the purposes of erosion, floodwater, and sediment control.

SECTION 3. Requires the Texas Commission on Environmental Quality to adopt rules to implement Section 11.1423, Water Code, as added by this Act, not later than April 1, 2026.

SECTION 4. Effective date: upon passage or on the 91st day after the last day of the legislative session.