

BILL ANALYSIS

C.S.H.B. 3154
By: Hopper
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Like many counties in Texas, Wise County is experiencing significant population growth. This growth has put a significant strain on the water resources and water suppliers in Wise County. Stakeholders in Wise County have been working together to find regional solutions to many of the issues facing Wise County, including the identification of water supplies to meet current and future demand. C.S.H.B. 3154 seeks to address the existing regional water issues by creating the Wise Regional Water District in order to deliver a reliable, resilient supply of water to the public at the lowest cost and highest quality possible while also ensuring the groundwater resources of Wise County can be conserved.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes 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.H.B. 3154 amends the Special District Local Laws Code to create the Wise Regional Water District, a conservation and reclamation district whose creation is not required to be confirmed at an election. The district's territory is coextensive with the territory of Wise County, except that the district's territory also includes the entire area in the boundaries of any participant or contract member, a portion of whose incorporated limits or boundaries are partially inside the county as those boundaries existed on the bill's effective date. The bill defines the following:

- "participant" as a governmental entity that provides retail utility service in the entity's boundaries and that contracts with the district for the construction of and payment for the water or wastewater projects to be financed by the district; and
- "contract member" as a governmental entity that provides retail utility service in its boundaries, that contracts with the district not later than the end of the second year after the bill's effective date to preserve the option to become a participant in the 10-year period following the bill's effective date, and that agrees to pay an annual pro rata share of the administrative and planning costs of the district that are unrelated to capital projects to be financed by the district, provided that the share of administrative and planning costs may not exceed for a contract member 50 cents per capita unless otherwise agreed by at least 75 percent of the contract members having, collectively, at least 75 percent of the population represented by all the contract members.

C.S.H.B. 3154 authorizes the district's territory to be expanded to include the area within the boundaries of a municipality or water district outside the county, if the district and the municipality or water district execute a contract member's contract or a participating member's contract not later than the second anniversary of the bill's effective date. The bill establishes that approval of a contract member's contract between the district and the municipality or water district requires a three-quarters majority vote of the district's board of directors and that approval of a participating member's contract between the district and the municipality or water district requires a three-quarters majority vote of the weighted vote of all directors eligible to vote. The bill defines "water district" as a conservation and reclamation district created under specified provisions of the Texas Constitution.

C.S.H.B. 3154 sets out legislative findings regarding the creation and establishment of the district and of subdistricts in the district.

Administrative Provisions

C.S.H.B. 3154 establishes that the district is governed by a board of directors, which has exclusive authority to manage the district. The bill establishes temporary provisions set to expire on the second anniversary of the bill's effective date that do the following:

- provide for an initial board composed of one director appointed by the commissioners court of Wise County and one director appointed by each of the following entities:
 - the City of Alvord;
 - the City of Aurora;
 - the City of Boyd;
 - the City of Bridgeport;
 - the City of Decatur;
 - the City of Newark;
 - the City of New Fairview;
 - the City of Paradise;
 - the City of Rhome;
 - the Walnut Creek Special Utility District; and
 - the West Wise Special Utility District; and
- establish that these initial directors serve until the date the regular directors are appointed.

C.S.H.B. 3154 requires each participant or contract member to appoint one member to the board and requires the commissioners court to appoint one member to the board. The bill establishes that an entity that contracts with the district more than five years after the bill's effective date is entitled to representation on the board only under the rules established by the board for the admission of board members and member entities. The bill authorizes the board, for a contract member to which the bill's provisions relating to board composition apply, to establish rules regarding the following:

- appointing members to the board by the contract member;
- voting authority of a board member appointed by the contract member; and
- voting weight for a board member appointed by a contract member.

The bill prohibits a director from being an elected official of any governmental entity that has the authority to appoint a member of the board. The bill makes a director subject to removal with or without cause by action of the governing body of the entity that originally appointed that member. The bill requires each entity that enters into a contract with the district before the second anniversary of the bill's effective date and qualifies to be a participant or contract member to appoint one member to the board before the second anniversary of the bill's effective date.

C.S.H.B. 3154 entitles directors who are appointed by the participants to vote on all matters before the board, including all projects to be considered by the board in all service areas of the district, regardless of whether the participant is participating in the project. The bill defines "service area" as that geographic area in the district's boundaries. The bill requires a board vote

concerning the authorization of and financial commitments for capital projects to be determined as provided by these provisions of the bill relating to director votes. The bill establishes that each participant that is receiving or that has contracted to receive service or capacity, including that service or capacity to be received as a result of the capital project then under consideration, has one vote for each four million gallons per day, or portion of that amount, of service or capacity for which the participant has contracted with the district. The bill requires the amount for which the participant has contracted to be determined by taking into account the amount of service or capacity the participant receives from a water treatment plant, a wastewater treatment plant, or a raw water supply, or any combination of the preceding. The bill entitles each participant with a population of 50,000 or more to one extra vote that may be cast on those matters requiring a weighted vote. The bill establishes that participation in capital projects financed by the district through the issuance of special facility bonds entitles that entity to be classified as a participant but does not entitle that entity to receive any credit toward the four million gallons per day of service or capacity standard established by the bill. The bill entitles a director who is appointed by a contract member that is not a participant to one vote on all matters before the board except those matters that require a weighted vote. The bill establishes that, regardless of the date on which an entity became a member, the entity is not entitled to a number of weighted votes that exceeds 25 percent of the weighted votes of all directors eligible to vote for a capital project.

C.S.H.B. 3154 establishes that, except as otherwise provided by the bill, directors serve staggered four-year terms in accordance with the procedures to be adopted by the initial board and authorizes a director to serve consecutive terms. The bill requires a director to be a qualified voter who resides in the district and to qualify to serve by taking the oath of office and furnishing evidence of the person's qualifications to serve on the board consistent with the bill's requirements, but requires an initial or regular director appointed by the commissioners court to be a qualified voter who resides in the county's unincorporated area. The bill establishes that a director is not entitled to receive compensation for serving as a director but may be reimbursed for actual reasonable expenses necessarily incurred on the district's behalf or in the discharge of official duties. The bill authorizes the board to establish a category of ex officio directors and to provide for the duties and responsibilities of the ex officio members in bylaws or rules to be adopted by the board.

C.S.H.B. 3154 requires the board to prepare and adopt bylaws for the district and sets out provisions relating to the following:

- board procedures and meetings;
- board officers;
- district employees;
- establishment of a customer advisory council, with customer defined as a wholesale user of the water or wastewater services provided by the district that provides retail utility service in the boundaries of the user; and
- conflicts of interest of board members and district officers.

Powers and Duties

C.S.H.B. 3154 establishes that, subject to specific bill provisions, the district and the board have the rights, powers, privileges, authority, and functions granted by specified Texas Constitution provisions relating to conservation and reclamation districts and the conservation and development of natural resources, including the rights, powers, privileges, authority, and functions conferred by specified Water Code provisions, including those relating to municipal utility districts, together with the additional rights, powers, privileges, authority, and functions authorized by the bill's provisions. The bill prohibits the district from levying or collecting property taxes. The bill establishes that its provisions prevail to the extent of a conflict or inconsistency with general law.

C.S.H.B. 3154 authorizes the district to plan, lay out, purchase, construct, acquire, own, operate, maintain, repair, and improve, inside or outside its territory, any works, improvements, facilities, plants, equipment, and appliances, including the following:

- any administrative properties and facilities;
- any permits, franchises, licenses, or contract or property rights; and
- any levees, drains, waterways, lakes, reservoirs, channels, conduits, sewers, dams, stormwater detention facilities, or other similar facilities and improvements, whether for municipal, industrial, agricultural, flood control, or related purposes, that are necessary, helpful, or incidental to the exercise of any right, power, privilege, authority, or function provided by the bill's provisions, including the following:
 - supplying water for municipal, domestic, and industrial uses, and all other beneficial uses or controls;
 - collecting, treating, processing, disposing of, and controlling all domestic or industrial wastes, whether in fluid, solid, or composite state;
 - gathering, conducting, diverting, controlling, and treating local stormwater or local harmful excesses of water in the district's territory; and
 - irrigating and altering land elevations in the district's territory where needed.

C.S.H.B. 3154 authorizes the district to acquire, by purchase or by exercise of the power of eminent domain, any land, easements, rights-of-way, or other property or improvements inside or outside the district's territory, including land above the probable high water line around any reservoirs in which the district has an ownership or operational interest, that are needed or are appropriate to carry out the district's powers and functions. The bill authorizes the district to exercise the power of eminent domain in the manner and with the privileges, rights, and immunities available under the laws of the state, including Property Code provisions governing eminent domain. The bill prohibits the district from exercising the power of eminent domain to acquire the following:

- any property located in a municipality or water district located wholly or partly in the county without first notifying the governing body of the municipality or water district in whose jurisdiction the subject property is located;
- any property located outside the county to be used as a water supply reservoir without first notifying the county or counties in which the reservoir is to be located;
- any property owned by the county, any municipality, any water district, or any agency or instrumentality of the county, municipality, or water district; or
- a waterworks system or a wastewater system that is owned by a municipality, a political subdivision of the state, private persons, or a nonprofit corporation.

These provisions of the bill take effect only if the bill receives a two-thirds vote of all the members elected to each house. The bill does the following if the bill does not receive such a vote:

- authorizes the district to acquire by purchase any land, easements, rights-of-way, or other property or improvements inside or outside the district's boundaries, including land above the probable high water line around any reservoirs in which the district has an ownership or operational interest, that are needed or are appropriate to carry out the district's powers and functions; and
- prohibits the district from exercising the power of eminent domain.

C.S.H.B. 3154 authorizes the district to do the following:

- acquire, construct, improve, maintain, and operate wholesale water and wastewater systems and treatment works necessary to provide service to district customers; and
- acquire, construct, improve, and maintain any water supply, reservoir, or interest in any water supply or reservoir necessary to fully implement the district's powers and duties as provided by the bill's provisions.

C.S.H.B. 3154 authorizes the district, on approval of the board of directors, to elect to provide water, wastewater, solid waste, or nonhazardous liquid waste services outside its service area

but prohibits the district from being compelled to supply those services for use outside its service area except by order of the state agency that has jurisdiction over those matters.

C.S.H.B. 3154 establishes that the basic service area, defined by the bill as the geographic area inside the corporate limits or boundaries of all participants and all customers and the areas that are served by those members and customers, has the primary right to water or wastewater treatment capacity and to water supply in each classification that the district secures under permit from the state agency that has jurisdiction.

C.S.H.B. 3154 establishes that its provisions expressly do not do the following:

- compel any customer or prospective customer to secure water or wastewater service from the district, except under contracts voluntarily executed; or
- alter any outstanding permit, contract, or other obligation, or in any manner impair the rights of any entity to own, operate, maintain, or otherwise use or control any water, wastewater, solid waste, or liquid waste system in accordance with the law applicable to that entity.

C.S.H.B. 3154 authorizes the district to exercise the powers needed to establish, acquire, operate, and maintain a regional solid waste disposal system and a nonhazardous liquid waste disposal system. The bill requires the district to provide the services afforded by a disposal system to the following:

- any user as determined by the board if the services are to be rendered in the district's basic service area; and
- any customer if the services are to be rendered outside the basic service area.

C.S.H.B. 3154 authorizes the district to adopt and enforce rules to protect water quality in and flowing to or from the areas in or surrounding the lakes, reservoirs, and other sources of water supply owned, operated, or controlled by the district. The bill requires the rules to be adopted for the purpose of the prevention of waste or unauthorized use of water controlled by the district and of the regulation of privileges on any land, reservoir, or easement owned or controlled by the district. The bill requires the rules to be adopted and enforced in accordance with statutory municipal utility district provisions relating to the powers and duties of those districts and requires the rules to be consistent with the applicable rules of any state agency that has jurisdiction over those sources of water supply. The bill authorizes the district, under a contract with a county, municipality, or water district, to adopt and enforce rules applicable in the boundaries of the county, municipality, or water district and in other areas under the jurisdiction of the county, municipality, or water district to do the following:

- preserve and protect the quality and sanitary condition of all water, sanitary sewage, and stormwater that may affect a water supply of the county, municipality, or water district or the district or the waters of the state;
- prevent waste or unauthorized use of water, sanitary sewage, or stormwater under the jurisdiction of a county, municipality, or water district or the district; or
- implement water conservation measures and programs in the district.

Such adopted rules may not exceed the authority of the county, municipality, or water district, must be consistent with and no more stringent than state or federal requirements, must conform to the terms of the contract, and are not applicable within a municipality or water district that is not a party to the contract or does not consent to the rules applying within the municipality or water district. The bill requires the district to publish once a week for two consecutive weeks in one or more newspapers with general circulation in the district a notice of the substance of such adopted rules and of any penalties for a violation of the rules. The bill creates a Class C misdemeanor for a person who violates a rule or order adopted by the board under these provisions of the bill. The bill prohibits a person from being charged with an offense under such provisions before the fifth day after the date of the second publication of the notice.

C.S.H.B. 3154 authorizes the district to do the following:

- enter into contracts with the United States, an agency of the United States, a municipality, a water district, or another public or private person considered necessary in the exercise of the district's powers and purposes;
- enter into contracts to acquire, purchase, rent, lease, or operate the water production, water supply, water filtration or purification, water supply facilities, or other water or wastewater facilities that are owned or operated by the contracting person; and
- acquire water appropriation permits and other necessary permits directly from the appropriate agency of the state or from owners of permits.

The bill authorizes contracts that require a payment of money by the district to be made payable from any general or specific source of funds as determined by the board.

C.S.H.B. 3154 authorizes a municipality, water district, public agency, political subdivision, or any nonprofit water supply corporation doing business wholly or partly in the district or a subdistrict to enter into any contract with the district that is considered appropriate by its governing body. The bill authorizes such a governing body to pledge to the payment of a contract any source of revenue that may be available to the governing body, including the levy and collection of property taxes, if that entity has the authority to levy and collect those taxes. The bill establishes that, to the extent a governing body pledges to the payment of the contract money to be derived from its own water system, its wastewater system, or its combined system, the payments constitute an operating expense of that system.

C.S.H.B. 3154 establishes that its provisions expressly do not exempt the district or a subdistrict or land located in the district from the terms and provisions of an applicable ordinance, code, resolution, platting and zoning requirement, rule, or regulation of a municipality.

C.S.H.B. 3154 establishes that the district is authorized to pay all costs and expenses incurred in the district's creation and organization.

Financial Provisions

C.S.H.B. 3154 authorizes the district to establish rates and charges to be assessed against customers of the district for each service rendered to those customers. The rates and charges may be established by classes of customers, by project, or by area of service. The bill requires the board, if revenue bonds or other obligations payable wholly from revenue are issued, to establish and revise rates of compensation for water sold and for wastewater or other services rendered by the district that will be sufficient to pay the expense of operating and maintaining the facilities of the district, to pay those bonds and obligations as they mature and the interest as it accrues, and to maintain the reserve and other funds as provided by the resolution or order authorizing those bonds or obligations.

C.S.H.B. 3154 authorizes the district to adopt, enforce, and collect all necessary charges, fees, or rentals for providing district facilities or services, require a deposit for any service or facilities furnished, and provide that the deposit bear interest. The bill authorizes the district to discontinue a facility or service to prevent an abuse or enforce payment of an unpaid charge, fee, or rental due the district. The bill authorizes a municipality, water district, public agency, political subdivision, or any other entity that contracts with the district to establish, charge, and collect fees, rates, charges, rentals, and other amounts for any service or facility provided under or in connection with a contract with the district, and to pledge sufficient amounts to make all payments required under the contract.

C.S.H.B. 3154 requires the district to have its funds and accounts audited by an independent auditor and to maintain a copy of any such audit in the district's official records.

C.S.H.B. 3154 authorizes the district to issue its revenue bonds, notes, revenue anticipation notes, bond anticipation notes, short-term obligations, refunding bonds, or other obligations for

any of its purposes without an election and on those terms the board determines to be appropriate. The bill authorizes obligations issued by the district to be made payable from all or part of the revenues of the district derived from any lawful source, including a contract with a customer or user of the facilities owned or operated by the district under the bill's provisions or from the ownership and operation of any waterworks system, wastewater system, sewer system, solid waste disposal system, or nonhazardous liquid waste system, or any combination of those systems. Additionally, those obligations may be paid from and secured by liens on and pledges of all or part of any of the revenue, income, or receipts derived by the district from its ownership, operation, lease, or sale of the property, buildings, structures, or facilities, including the proceeds or revenues from contracts with a person, firm, corporation, municipality, water district, public agency, or other political subdivision or entity. The bill sets out provisions relating to the district's bond procedures and depository for district money.

Subdistricts

C.S.H.B. 3154 authorizes the district, for purposes of providing for the orderly development of water, wastewater, and other services of the district in its territory and to prevent unnecessary duplication of facilities, to create subdistricts. The bill authorizes a petition requesting the creation of a subdistrict in the district to be presented to the district's board and sets out provisions relating to the following:

- petition requirements and related provisions, including an authorization for a petition to be submitted by the governing body of a municipality or water district if accompanied by a resolution of the governing body authorizing the submission of the petition;
- a hearing on a petition and notice of the hearing;
- hearing procedures; and
- the resulting board order granting or dismissing the petition.

C.S.H.B. 3154 requires a subdistrict, if the board orders its creation, to be created and in existence from and after the date stated in the district's order, without the necessity of a confirmation election in the subdistrict's boundaries. The bill establishes that the subdistrict does not have the authority to levy or collect property taxes.

C.S.H.B. 3154 establishes that a subdistrict is a conservation and reclamation district under specified Texas Constitution provisions relating to such districts and the conservation and development of natural resources with the powers granted in such provisions. The bill prohibits a subdistrict from providing services outside its boundaries but authorizes a subdistrict to provide retail water and sewer services in its customer service area as certificated by a state regulatory agency. The bill, if it receives a two-thirds vote of all the members elected to each house, establishes that, except as otherwise provided by the bill's provisions, a subdistrict has the powers specified in the bill's provisions and the same powers as the district, including the power of eminent domain, and is subject to the same limitations. The bill, if it does not receive such a vote, establishes that, except as otherwise provided by the bill's provisions, a subdistrict has the powers specified in the bill's provisions and the same powers as the district and is subject to the same limitations and prohibits the subdistrict from exercising the power of eminent domain.

C.S.H.B. 3154 establishes that a subdistrict is governed by a board of supervisors consisting of at least five members, as determined by the district's board at the time the creation petition is granted. The bill requires the initial board of supervisors to be appointed by the district from among the subdistrict's residents. The bill sets out provisions relating to the terms and removal of the initial supervisors and the filling of a vacancy on the board of supervisors. The bill requires members of the board of supervisors, except for the initial supervisors and before the issuance of bonds, notes, or other obligations of the subdistrict, to be elected in the manner provided by Water Code provisions governing certain water districts. The bill sets out provisions relating to such election and the terms of the supervisors.

C.S.H.B. 3154 authorizes a subdistrict to exercise the powers provided by the bill's provisions and requires a subdistrict to own and manage the affairs, works, and projects of the subdistrict subject to any contracts with the district. The bill establishes that the issuance of bonds by a subdistrict is not effective until the issuance is approved by official action of the district's board.

C.S.H.B. 3154 establishes that the members of the board of supervisors are not entitled to receive compensation for serving as supervisors but may be reimbursed for actual reasonable expenses necessarily incurred on the subdistrict's behalf or in the discharge of their official duties.

C.S.H.B. 3154 establishes that a subdistrict may only become a participant of the district.

C.S.H.B. 3154 authorizes the district's board, on the adoption of a conversion resolution by the board of directors of any nonprofit water supply corporation doing business wholly or partly in the district's territory, to consider the question of converting the corporation to a subdistrict by following the procedures provided by the bill's provisions for creation of subdistricts. The bill requires the resolution to include, in addition to the information required for a subdistrict creation petition, a plan of conversion, including the proposed method for the transfer of assets and the assumption of debts to the subdistrict.

C.S.H.B. 3154 sets out provisions relating to meetings and the office and meeting place of a board of supervisors.

C.S.H.B. 3154 exempts all property owned, operated, leased, or controlled by the district or a subdistrict from taxation. The bill also exempts district or subdistrict bonds, transactions relating to the bonds, and profits made in the sale of the bonds from state taxation or taxation by a municipality, county, special district, or other political subdivision of the state.

C.S.H.B. 3154 establishes that its contingent provisions relating to eminent domain are not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

C.S.H.B. 3154 establishes that all applicable requirements relating to the following have been fulfilled and accomplished with respect to the bill:

- the legal notice of intention to introduce;
- governor action;
- Texas Commission on Environmental Quality recommendations; and
- the state constitution and laws and legislative rules and procedures.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3154 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.

The substitute expands the introduced version's provisions that provide for the district's territory to be expanded to include the area within the boundaries of a municipality outside the county to also provide for the inclusion, in the same manner, of the area within the boundaries of a water district outside the county, makes related changes to reflect the substitute's expansion, and also expands the introduced version's district contracting provisions to provide for a contract between the district and a water district. The substitute includes a definition for "water district," whereas such a definition was absent in the introduced.

With respect to the composition of the initial board, whereas the introduced required the county judge to appoint one director and each county commissioner to appoint one director, the substitute requires the commissioners court to appoint one director and each of the following entities to appoint one director:

- the City of Alvord;
- the City of Aurora;
- the City of Boyd;
- the City of Bridgeport;
- the City of Decatur;
- the City of Newark;
- the City of New Fairview;
- the City of Paradise;
- the City of Rhome;
- the Walnut Creek Special Utility District; and
- the West Wise Special Utility District.

The substitute omits the provision in the introduced that authorized the commissioners court to appoint one additional member to the regular board if the board determines that such an appointment is in the district's best interests and that the directors to be appointed by the commissioners court are selected from a list of nominees submitted to the commissioners court by the board. The substitute includes a provision that was not in the introduced requiring an initial or regular director appointed by the commissioners court to be a qualified voter who resides in the county's unincorporated area.

With respect to the bill's contingent eminent domain provisions, the introduced and the substitute differ as follows:

- whereas the introduced prohibited the district from exercising the power of eminent domain to acquire any property located in a municipality located wholly or partly in the county without prior consent by resolution of the governing body of the municipality in whose jurisdiction the subject property is located, the substitute prohibits the district from exercising such power to acquire any property located in a municipality or water district located wholly or partly in the county without first notifying the governing body of the municipality or water district in whose jurisdiction the subject property is located;
- whereas the introduced prohibited the district from exercising the power of eminent domain to acquire any property located outside the county to be used as a water supply reservoir without the consent of the county or counties in which the reservoir is to be located, the substitute prohibits the district from exercising the power of eminent domain to acquire any such property without first notifying such county or counties; and
- the substitute includes a prohibition that was not in the introduced against the district exercising the power of eminent domain to acquire any property owned by any water district or any agency or instrumentality of the water district.