

BILL ANALYSIS

C.S.S.B. 1855
By: Perry
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that S.B. 2440, which was passed by the 88th Texas Legislature in 2023, provided a requirement that a plat application for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land have attached to it a statement that is prepared by an applicable engineer or geoscientist and that certifies that adequate groundwater is available for the subdivision. The bill sponsor has also informed the committee that S.B. 2440 also provided an authorization for a municipal authority responsible for approving plats and a commissioners court, respectively, to waive the requirement if, in part, based on credible evidence of groundwater availability in the vicinity of the proposed subdivision, the municipal authority or commissioners court determines that sufficient groundwater is available and will continue to be available to the subdivided tract of land. The bill sponsor has further informed the committee that since the passage of S.B. 2440, counties and municipalities have expressed confusion as to what constitutes credible evidence of groundwater availability in the vicinity of a proposed subdivision. The bill sponsor has additionally informed the committee that, with respect to a statutory requirement for the Texas Commission on Environmental Quality (TCEQ) by rule to establish the appropriate form and content of the certification to be attached to a plat application, there is a lack of instruction for how counties and municipalities are to proceed with an application that does not comply with TCEQ guidelines. C.S.S.B. 1855 seeks to rectify these ambiguities and oversights by, among other things, requiring the TCEQ by rule to establish what constitutes credible evidence of groundwater availability and addressing the certification statement.

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 SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.S.B. 1855 amends the Local Government Code to require a municipal authority and a commissioners court, respectively, to disapprove a plat application if the application fails to comply with the requirements under statutory provisions regarding the municipal or county regulation of subdivisions with respect to additional requirements regarding the use of groundwater.

C.S.S.B. 1855 requires the Texas Commission on Environmental Quality (TCEQ) by rule to establish what constitutes credible evidence of groundwater availability for the purpose of the

authority for a municipal authority responsible for approving plats or a commissioners court to waive the requirement that a plat application for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land have attached to it a statement that is prepared by an applicable engineer or geoscientist and that certifies that adequate groundwater is available for the subdivision if, in part, based on credible evidence of groundwater availability in the vicinity of the proposed subdivision, the municipal authority or commissioners court determines that sufficient groundwater is available and will continue to be available to the subdivided tract of land. The bill requires such statement to comply with that rule and TCEQ rules, as required by current law, establishing the appropriate form and content of the certification to be attached to a plat application. The bill requires the TCEQ to adopt the applicable rules not later than September 1, 2026, and, in adopting the rules, to define the meaning of "credible evidence" and to update, as appropriate and after review, the appropriate form and content of the certification required to be attached to a plat application.

C.S.S.B. 1855 amends the Water Code to specify that the authority for the commissioners court of a county in a priority groundwater management area to adopt water availability requirements in an area where platting is required if the court determines that the requirements are necessary to prevent current or projected water use in the county from exceeding the safe sustainable yield of the county's water supply is notwithstanding the prohibition against a commissioners court or county authority responsible for approving plats requiring an analysis, study, document, agreement, or similar requirement to be included in or as part of an application for a plat, development permit, or subdivision of land that is not explicitly required by state law.

C.S.S.B. 1855 applies only to a plat application filed on or after the bill's effective date.

EFFECTIVE DATE

January 1, 2026.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1855 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.

The substitute postpones from January 1, 2026, as in the engrossed, to September 1, 2026, the deadline by which the TCEQ must adopt rules under the bill's provisions. The substitute includes a provision that was not in the engrossed requiring the TCEQ, in adopting the rules, to define the meaning of "credible evidence" and to update, as appropriate and after review, the appropriate form and content of the certification required to be attached to an applicable plat application.