

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1855
By: Perry
Water, Agriculture and Rural Affairs
4/7/2025
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2023, the 88th Legislature passed S.B. 2440 requiring developers to attach a statement prepared by a licensed engineer or geoscientist certifying adequate groundwater availability for a proposed development to the plat application to subdivide the involved tract of land if the development will rely on groundwater for its water supply.

S.B. 2440 provided an exception to the certification requirement partly premised on a determination by the county or municipality considering the plat application, as applicable, that sufficient groundwater is available to the proposed development "based on credible evidence of groundwater availability in the vicinity of the proposed subdivision."¹ Since that time, counties and municipalities have expressed confusion as to what constitutes credible evidence of groundwater availability in the vicinity of a proposed subdivision.

Similarly, S.B. 2440 required the Texas Commission on Environmental Quality (TCEQ) to establish the form and content of a groundwater availability certification to be attached to a plat application but did not give instruction to counties and municipalities regarding how to proceed with an application that does not comply with the TCEQ guidelines.

S.B. 1855 is intended to rectify these ambiguities and oversights. Specifically, S.B. 1855:

- (1) requires TCEQ to establish by rule what constitutes credible evidence of groundwater availability for purposes of the exception to the S.B. 2440 certification requirement; and
- (2) requires counties and municipalities to deny a plat application when the application does not comply with TCEQ form and content requirements.

¹ Tex. Loc. Gov't Code § 212.0101(a-1); Tex. Loc. Gov't Code § 232.0032(a-1).

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1855 amends current law relating to requirements that certain plats for the subdivision of land include evidence of groundwater supply.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is modified in SECTION 1 (Section 212.0101, Local Government Code) and SECTION 2 (Section 232.0032, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 212.0101, Local Government Code, by amending Subsections (a) and (b) and adding Subsection (a-3), as follows:

- (a) Requires 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, except as provided by Subsection (a-1) (relating to authorizing a municipal authority to waive a certain requirement of a plat application if certain conditions apply), have

attached to it a statement that fulfills certain requirements, including complying with the rules adopted by the Texas Commission on Environmental Quality (TCEQ) under Subsection (b). Makes nonsubstantive changes.

(a-3) Requires a municipal authority to disapprove a plat application if the application fails to comply with the requirements of Section 212.0101 (Additional Requirements: Use of Groundwater).

(b) Requires TCEQ by rule to establish:

(1) creates this subdivision from existing text and makes no further changes; and

(2) what constitutes credible evidence of groundwater availability for the purpose of Subsection (a-1)(1) (relating to waiving a certain requirement if it is determined that sufficient groundwater is available and will continue to be available to the subdivided tract of land).

SECTION 2. Amends Section 232.0032, Local Government Code, by amending Subsections (a) and (b) and adding Subsection (a-3), as follows:

(a) Requires 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, except as provided by Subsection (a-1) (relating to authorizing a commissioners court to waive a certain requirement of a plat application if certain conditions apply), have attached to it a statement that fulfills certain requirements, including complying with the rules adopted by TCEQ under Subsection (b). Makes nonsubstantive changes.

(a-3) Requires a commissioners court to disapprove a plat application if the application fails to comply with the requirements of Section 232.0032 (Additional Requirements: Use of Groundwater).

(b) Requires TCEQ by rule to establish:

(1) creates this subdivision from existing text and makes no further changes; and

(2) what constitutes credible evidence of groundwater availability for the purpose of Subsection (a-1)(1) (relating to waiving a certain requirement if it is determined that sufficient groundwater is available and will continue to be available to the subdivided tract of land).

SECTION 3. Amends Section 35.019(a), Water Code, as follows:

(a) Authorizes the commissioners court of a county in a priority groundwater management area, notwithstanding Section 232.001(h) (relating to prohibiting the commissioners court or the county authority responsible for approving plats from requiring certain requirements), Local Government Code, 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.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Requires TCEQ, not later than January 1, 2026, to adopt rules as required by Sections 212.0101(b) and 232.0032(b), Local Government Code, as amended by this Act.

SECTION 6. Effective date: January 1, 2026.