

SUBJECT: Revising authority of conservation and reclamation districts

COMMITTEE: Natural Resources — favorable, with amendments

VOTE: 6 ayes — Counts, Yost, Combs, King, R. Lewis, Walker

0 nays

3 absent — Corte, Puente, Stiles

WITNESSES: None

DIGEST: HB 2189 would revise various parts of the Water Code dealing with local water districts, utility districts and other types of local districts in order to establish new enforcement powers, amend sections on boards of director compensation and elections and make other changes in district authority. The bill would take effect September 1, 1995. The changes would include:

**Penalties.** The bill would increase the maximum fines for the breach of rules and regulations of a municipal utility district, water control and improvement district, water improvement district or fresh water supply district from a maximum of \$200 per day to a maximum of \$1,000 per day. A provision relating to no more than 30 days in jail or both a fine and jail time would remain unchanged.

**Additional compensation.** The maximum compensation of directors of levee improvement districts, drainage districts, water control and improvement districts, water improvement districts and municipal utility districts would be \$100 a day (up from \$50) for each day the director actually spends performing the duties of director. The fee could not exceed a monthly cap of \$500 (up from \$200).

Directors could receive, with the board's approval, reimbursement of actual expenses reasonably incurred while serving the district. Directors receiving compensation or reimbursement would have to file with the secretary a signed statement showing the actual expenses incurred and a general description of duties performed during each day of service. (Under current

law, only a statement showing the actual number of days spent in service to the district need be submitted.)

Supervisors of fresh water supply districts could receive compensation of up to \$100 a day (up from \$50) for each day the supervisor actually spends performing the duties of supervisor. Monthly caps of \$500 would be imposed.

Supervisors could receive, with the boards' approval, reimbursement of actual expenses reasonably incurred while serving the district. HB 2189 would require that before compensation for services or reimbursement of other expenses, supervisors would be required to file with the secretary a signed statement showing the actual expenses incurred and a general description of duties performed during each day of service. (Under current law, only a statement showing the actual number of days spent in service to the district need be submitted.)

**Operation and maintenance taxes.** The purposes of taxes levied by municipal utility districts and water control and improvement districts would be expanded to include capital improvement projects. Such an operational tax could not be levied by a district unless voters approved.

A district could use money from the district's operation and maintenance tax revenue to reimburse a developer for property in the district only if the Texas Natural Resource Conservation Commission's (TNRCC) executive director so authorized.

**Surplus property.** HB 2189 would define surplus property as that property or interest in land owned by the district that is not needed by the district. A district, with board approval, could sell surplus property by public or private sale or exchange surplus property for property needed by the district with a comparable fair market value as determined by the board. A district would be required publish advance notice of these private or public sales once each week for two consecutive weeks in one or more newspapers with general circulation in the district.

HB 2189 would require that a district that conducted a private or public sale of property would have to apply the proceeds from the sale to

outstanding district bonds secured by tax revenues if required by the district's applicable bond resolutions. A district, having no outstanding bond obligations, could use the proceeds for any purposes.

HB 2189 would authorize a district, with board approval, to sell, transfer, abandon or exchange certain other surplus property of a district without complying with the appraisal and publication requirements of the Local Government Code in the following instances:

- the property was dedicated at no cost to the district;
- the property was transferred to or exchanged for property from another political subdivision on terms that both entities feel are necessary and advantageous; or
- the property was abandoned, sold, exchanged or transferred to make minor boundary reconciliations.

**Bond approval.** Bonds issued and approved by the Federal Farmers Home Administration or the Texas Water Development Board would no longer have to be approved by the TNRCC.

**Elections.** HB 2189 would allow conservation and reclamation districts to combine their directors elections, maintaining one polling place with one set of election officials in at least one of the districts if:

- the districts are located in the same county;
- a substantial amount of property in the districts has been or is being developed as part of a single community development plan; and
- the districts are served by common water and waste water systems.

These elections would have to take place in a building open to the public that meets all applicable requirements of the Election Code and other laws relative to polling places. HB 2189 would require that these polling places be located not farther than five miles from particular district boundaries.

**Removal of board members.** HB 2189 would authorize a district governing board to remove a board member, by unanimous vote, if the member in question has missed at least half of the board's regular meetings during the preceding twelve months. Written notice to a member of removal would be required. A 30-day appeal period would be provided. The removed member could then be reinstated if a good cause showing was made regarding the member's absenteeism.

**SUPPORTERS  
SAY:**

Higher penalties are needed to curb violations of water district rules and regulations. Under current law, the penalties are so low that many choose to simply ignore rather than obey the law. An increase in penalties of up to \$1,000 a day would provide a needed incentive for potential violators to follow applicable laws.

The exemption from having to have certain surplus property advertised and appraised before it is sold is important. For instance, some property is turned over for easement purposes and then not used by the district. It makes good sense for the district to be able to turn over this property without incurring the expense to have the property advertised and appraised. The cost of having the sites advertised and appraised may outweigh the actual fair market cost of the property.

Most districts currently are authorized to finance capital improvements and facilities only by means of bonding the necessary money. These districts are not allowed to finance improvements with tax revenues as they are constructed. HB 2189 would afford water districts similar options, like those available to cities and school districts, to use operations and maintenance proceeds to finance improvements on a pay-as-you-go basis.

The bill would help boards having difficulties with members who are absent so often that they delay important work and affect the ability of the board to achieve a quorum. Currently, there is no mechanism to remove these members. HB 2189 will provide that mechanism along with safeguards to ensure that no member is wrongly removed.

Directors have not had a compensation increase since 1983. The increase proposed would allow directors to get proper compensation for the work

they do. The bill is carefully crafted, however, and would provide a limit on monthly compensation and detailed reimbursement policies.

Conservation and reclamation district elections are very expensive for individual water districts. Typically these elections have low turnout. Allowing certain conservation and reclamation districts to combine their director elections and maintain one polling place with one set of officials overseeing the process will save money and increase efficiency.

Current law requiring TNRCC to review financial feasibility of bonds is both a burdensome and duplicative task for the commission to undertake if the review is already being done by either the Farmers Home Administration or the Texas Water Development Board.

**OPPONENTS  
SAY:**

No apparent opposition

**NOTES:**

The committee amendments would require that TNRCC, rather than the district's executive director, approve reimbursements for developers.