

**SUBJECT:** Establishing the Pine Island Bayou Stormwater Control District

**COMMITTEE:** Natural Resources — committee substitute recommended

**VOTE:** 8 ayes — Counts, Walker, Cook, Culberson, King, R. Lewis, Moffat, Puente

0 nays

1 absent — Corte

**WITNESSES:** For — Kim Carroll, Pine Island Bayou Flood Committee; Guy Goodson and Jeanie Turk, Committee to Create Pine Island Bayou Stormwater Control District

Against — Janice Bezanson, Texas Committee on Natural Resources; Maxine Johnston, Big Thicket Association; Ken Kramer, Sierra Club; David Simon, National Parks and Conservation Association

On — Richard Peterson, National Park Service, Big Thicket National Preserve

**BACKGROUND :** Art. 16, sec. 59 of the Texas Constitution allows the creation of conservation and reclamation districts for such purposes as controlling, storing, and distributing storm and flood waters. Districts may issue bonds and levy and collect taxes for projects related to those purposes. The Constitution specifies detailed notice requirements before a district can be created.

**DIGEST:** CSHB 3546 would establish the Pine Island Bayou Stormwater Control District, subject to local voter approval. The district would encompass approximately 700 square miles and include portions of Liberty, Hardin, Jefferson and Polk counties. The district would be a general law district with the powers of both a drainage and a stormwater control district, subject to supervision by the Texas Natural Resource Conservation Commission (TNRCC).

The district would be governed by seven temporary directors named in the bill, who would serve until permanent directors were elected. As soon as

practicable, the temporary board of directors would set a date for a hearing to determine if the land included in the district would benefit from the creation of a district. The bill would set notice and hearing requirements and would require the hearing to be held under Texas Administrative Procedures Act guidelines.

If the temporary board of directors found that the land included in the district would benefit from the creation of a district, the board would confirm the district boundaries. The board could redraw district boundaries, excluding a portion of the land from the district it found would not benefit by being included in it.

After district boundaries were redrawn or confirmed, the board would call an election on establishing the district and elect seven permanent members to the board, who would serve staggered four-year terms. Three directors would be elected at large for two-year terms and four for four-year terms.

The district could issue bonds backed by property taxes, acquire land and property and title to land or easements on public and private land both in and outside district boundaries. The district could acquire land, easements or other property by condemnation inside or within five miles of the district for sewer, water, and storm and flood drainage connections.

The bill would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS  
SAY:**

CSHB 3546 would allow badly needed flood control measures to be implemented in the drainage area of Pine Island Bayou in East Texas. The district could only be created with approval of voters in the area, who would pay for the changes themselves through property taxes.

There have been severe flooding problems in this area in recent years. More than 30 inches of rain fell in the bayou's watershed in 1994, for example, and residents deserve to be given a chance to implement measures that could prevent future flooding and protect lives and property in the area. Flooding could be mitigated in the area; studies by the U.S. Corps of Engineers has identified some such projects. Although the Corps decided against the projects, this conclusion was based on a strict cost/benefit analysis. Local

voters are the ones who should decide what is economically feasible in the area.

No improvements could eliminate flooding in every condition but substantial improvements could be made. For example, building holding ponds in the watershed's source areas in western Hardin and eastern Liberty counties would allow flood water downstream to be diverted to keep from blocking water upstream. Another solution would be to straighten some of the bayou's many bends to clear out logs that snag in the riverbed during floods. CSHB 3546 would give the residents of these areas a chance to defend themselves against future flooding.

The nearby Big Thicket National Preserve could not be damaged by district actions; the Big Thicket is protected by federal laws designed to preserve national environmental resources. No action could be taken by the district that would violate federal laws or regulations. Most actions that impact wetlands, in fact, must be permitted by the federal government.

**OPPONENTS  
SAY:**

CSHB 3546 would create a committee of developer and realtor interests to draw up a flood control district that could seriously damage the nearby Big Thicket National Preserve. Taxpayers and landowners in East Texas would be burdened by increased property taxes to fund "flood control" projects that would not stop flooding but could destroy an irreplaceable national treasure that attracts tourists and money to the area.

CSHB 3546 would create a false promise of stormwater control. The district would propose destructive projects, including dredging, channelization, and diversions, that could cause massive disruptions to the hydrology and ecology of the Big Thicket, which is dependant on fragile stream corridors located within the boundaries of the proposed district.

Two U.S. Army Corps of Engineers studies of the district have concluded that, "there is no economically feasible nonstructural or structural means of reducing flood damages in the Pine Island Bayou Watershed." The bayou watershed is at sea level, which backs up due to tidal influences. Heavy rainfall in the area causes flooding that cannot be mitigated. Attempts at flood control would fail and create even greater burdens on taxpayers for repairs, and bailouts.

Instead of promoting housing construction in the Pine Island Bayou watershed, the state should give people who are already living in the floodplain financial incentives to move so state taxpayers do not have to keep bailing them out.

**NOTES:**

The original version of the bill called for two directors to be elected for two-year terms and three for four year terms.

The companion bill, SB 1899 by Galloway, passed the Senate by 28-2 (Barrientos and Truan) on April 24 and has been referred to the House Natural Resources Committee.