

SUBJECT: Providing groundwater district directors immunity from personal lawsuits

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 7 ayes — Keffer, Ashby, Burns, Frank, Larson, Lucio, Nevárez

1 nay — Kacal

3 absent — D. Bonnen, T. King, Workman

WITNESSES: For — Gregory Ellis, Mesa Underground Water Conservation District; Ty Embrey, Clearwater Underground Water Conservation District, Panola County Groundwater Conservation District, Middle Trinity Groundwater Conservation District, Real Edwards Conservation and Reclamation District; Paul Pape, Bastrop County; Tom Glaa; (*Registered, but did not testify*: Robby Cook, Hemphill County Underground Water Conservation District; Shauna Fitzsimmons, Upper Trinity Groundwater Conservation District, Prairielands Groundwater Conservation District, North Texas Groundwater Conservation District, Barton Springs-Edwards Aquifer Conservation District; Michele Gangnes, League of Independent Voters of Texas; Ken Kramer, Sierra Club-Lone Star Chapter; Judith McGeary, Farm and Ranch Freedom Alliance; Mike McGuire, Rolling Plains Groundwater Conservation District; Joe Morris, Aqua Water Supply Corp.; Claudia Russell, Brush Country Groundwater Conservation District; Stacey Steinbach, Texas Alliance of Groundwater Districts; Robert Turner, Texas Sheep and Goat Raisers Association, West Texas Ground Water Management Alliance; Todd Votteler, Guadalupe-Blanco River Authority; David Weinberg, Texas League of Conservation Voters; C.E. Williams, Panhandle Groundwater Conservation District)

Against — None

On — Kelly Mills, Texas Commission on Environmental Quality

BACKGROUND: Under Water Code, sec. 36.066 a groundwater conservation district may sue and be sued in the name of the district by and through its board.

Water Code, sec. 36.060 entitles a groundwater conservation district director to receive fees for each day spent performing the duties of a director.

DIGEST: CSHB 3163 would protect groundwater conservation district board members from personal liability lawsuits by providing a member with immunity from suit and liability for official votes and official actions.

The bill also would provide that, for liability purposes only, a groundwater conservation district director would be considered a district employee under the Tort Claims Act, even if the director was a volunteer and did not receive fees.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: CSHB 3163 would protect groundwater conservation district directors from personal liability lawsuits. Groundwater conservation districts are the preferred method of groundwater management in Texas. District directors are charged with complicated issues of water law and they must balance the private property rights of those applying for permits, those already producing groundwater, and those wishing to conserve their groundwater for future use. Further complicating these issues are differing viewpoints and expectations, methods of groundwater modeling, and interpretations of technical data and legislative intent.

Groundwater conservation district boards sometimes are made up of appointed volunteers who become public servants and engage in what can be a thankless job. These board members deserve protection from personal liability lawsuits that could impact their livelihood.

The bill would not have an impact on accountability since it would not protect the board as a whole from being sued. Since groundwater conservation district directors are either elected or appointed, any questionable act in an official capacity would result in removal by the

election or the appointment process.

**OPPONENTS
SAY:**

CSHB 3163 could lower accountability of groundwater conservation district directors by providing blanket immunity from personal lawsuits. Immunity from personal lawsuits would eliminate a level of assurance that local groundwater conservation district board members were acting in good faith on behalf of the constituents they serve.