

SUBJECT: Requiring GCD management plans to include desired future conditions

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 9 ayes — T. King, Harris, Bowers, Kacal, Larson, Paul, Price, Walle, Wilson
0 nays
2 absent — Lucio, Ramos

WITNESSES: For — Gregory Ellis, GM Ellis Law Firm PC; Leah Martinsson, Texas Alliance of Groundwater Districts; Sarah Kinkle, Texas Water Conservation Association

Against — None

On — (*Registered, but did not testify*: John Dupnik, TWDB)

BACKGROUND: Water Code sec. 36.1071 requires a groundwater conservation district to coordinate with other water management entities on a regional basis to develop a management plan that addresses certain goals relating to the use and conservation of groundwater. These goals include addressing the desired future conditions for groundwater in the area.

Under sec. 36.108, districts in the same groundwater management area must propose and adopt desired future conditions for the relevant aquifer within the management area every five years. The districts must consider certain information before adopting the conditions, including aquifer uses and conditions, water supply needs, the feasibility of achieving the desired future conditions, and the impact on private property interests and rights.

DIGEST: CSHB 3801 would require that a groundwater conservation district management plan include the most recently approved desirable future conditions adopted under Water Code sec. 36.108 and the amount of modeled available groundwater corresponding to those conditions. A

district would be required to amend a management plan within two years of the adoption of the desired future conditions. If a petition challenging the reasonableness of a desired future condition was filed, the executive administrator of the Texas Water Development Board would be required to consider the management plan administratively complete if the district included:

- the most recently approved desired future conditions;
- the amount of modeled available groundwater corresponding to the desired future conditions;
- a statement of the status of the petition challenging the reasonableness of a desired future condition; and
- certain other information currently required by statute.

The bill would take effect September 1, 2021.

**SUPPORTERS
SAY:**

CSHB 3801 would provide necessary clarification on the information that is required to be included in a groundwater conservation district (GCD) management plan. A crucial component of these plans is the desired future conditions adopted as part of the joint planning process conducted by GCDs within each of the state's 16 groundwater management areas based on major aquifer boundaries. Current statute allows persons affected by an adopted desired future condition to petition that it is unreasonable. This has resulted in confusion among GCDs about whether to include a desired future condition that has been petitioned as unreasonable in a management plan and at the Texas Water Development Board (TWDB) about how to evaluate plans that contain such desired future conditions.

The bill would make it clear that a GCD is required to include the most recently adopted desired future conditions in a management plan regardless of any finding or petition of unreasonableness. The bill also would provide TWDB with the necessary statutory guidance to evaluate management plans that contain such desired future conditions. This would provide necessary direction to all affected parties and help to clear up points of contention that form the basis of recent litigation.

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CRITICS
SAY:

No concerns identified.