

## **BILL ANALYSIS**

Senate Research Center  
77R15443 QS-D

C.S.H.B. 3544  
By: Hilderbran (Wentworth)  
Natural Resources  
5/10/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Texas faces a difficult challenge to develop water policies that serve both state and regional interests. The Texas Constitution authorizes the creation of groundwater conservation districts to plan, develop, and regulate the use of water. H.B. 3544 ratifies the creation of the Cow Creek Groundwater Conservation District, subject to voter approval at a confirmation election.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Cow Creek Groundwater Conservation District in SECTION 11 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. RATIFICATION OF CREATION. Ratifies the creation by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 (Senate Bill No. 1911), of the Cow Creek Groundwater Conservation District (district) in Kendall County as required by Section 15(a) of that Act, subject to approval at a confirmation election under Section 8 of this Act.

SECTION 2. DEFINITIONS. Defines "district," "retail public utility," and "well."

SECTION 3. BOUNDARIES. Provides that the boundaries of the district are coextensive with the boundaries of Kendall County, Texas.

SECTION 4. GENERAL POWERS. (a) Provides that the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36 (Groundwater Conservation Districts), Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. Provides that this Act prevails over any provision of general law that is in conflict or inconsistent with this Act, including any provision of Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 (Senate Bill No. 1911).

(b) Provides that, notwithstanding Subsection (a), the following provisions prevail over a conflicting or inconsistent provision of this Act:

- (1) Sections 36.1071-36.108, Water Code;
- (2) Sections 36.159-36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

SECTION 5. BOARD OF DIRECTORS. (a) Provides that the district is governed by a board of five directors.

(b) Provides that temporary directors serve until initial directors are elected under Section 8 of this Act.

(c) Provides that initial directors serve until permanent directors are elected under Section 10 of this Act.

- (d) Provides that permanent directors serve staggered four-year terms.
- (e) Requires each director to qualify to serve as director in the manner provided by Section 36.055 (Sworn Statement, Bond, and Oath of Office), Water Code.
- (f) Provides that a director serves until the director's successor has qualified.
- (g) Requires that if there is a vacancy on the board, the remaining directors appoint a director to serve until the next election for directors. Requires that at the next election for directors, a person be elected to fill the position. Requires that if the position is not scheduled to be filled at the election, the person elected to fill the position serve only for the remainder of the unexpired term.

SECTION 6. METHOD OF ELECTING DIRECTORS. (a) Requires the directors of the district to be elected according to the commissioners precinct method as provided by this section.

- (b) Requires one director to be elected by the qualified voters of the entire district, and one director to be elected from each county commissioners precinct by the qualified voters of that precinct.
- (c) Requires that to be qualified to be a candidate for or to serve as a director at large, a person be a registered voter in the district. Requires that to be qualified to be a candidate for or to serve as a director from a county commissioners precinct, a person be a registered voter of that precinct.
- (d) Requires a person to indicate on the application for a place on the ballot:
  - (1) the precinct that the person seeks to represent; or
  - (2) that the person seeks to represent the district at large.
- (e) Requires that at the first election after the county commissioners precincts are redrawn under Section 18, Article V, Texas Constitution, four new directors be elected to represent the precincts. Requires the directors elected to draw lots to determine which two directors serve two-year terms and which two directors serve four-year terms.

SECTION 7. TEMPORARY DIRECTORS. (a) Requires the temporary board of directors to be appointed by the county commissioners court. Requires the county commissioners court to appoint a temporary director from each commissioners precinct and one director at large.

- (b) Requires that if a temporary director fails to qualify for office, the temporary directors who have qualified appoint a person to fill the vacancy. Requires that if at any time there are fewer than three qualified directors, the Texas Natural Resource Conservation Commission appoint the necessary number of persons to fill all vacancies on the board.

SECTION 8. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) Requires the temporary board of directors to call and hold an election to confirm establishment of the district and to elect initial directors.

- (b) Requires the temporary board of directors, at the confirmation and initial directors' election, to have placed on the ballot the names of the five temporary directors, the name of any other candidate filing for an initial director's position, and blank spaces to write in the names of other persons.
- (c) Provides that Section 41.001(a) (relating to uniform election dates), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(d) Requires a confirmation and initial directors' election, except as provided by this section, to be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

(e) Prohibits the temporary directors from calling another election under this section before the first anniversary of that election if a majority of the votes cast at the election held under this section is against the confirmation of the district.

(f) Requires the temporary directors to declare the district created if a majority of the votes cast at the election held under this section is in favor of the creation of the district.

(g) Requires that if the district is created at the confirmation election, the temporary directors, at the time the vote is canvassed, declare the candidate receiving the most votes from each commissioners precinct and at large to be elected as initial directors.

(h) Requires the temporary directors to file a copy of the election results with the Texas Natural Resource Conservation Commission.

**SECTION 9. TERMS OF OFFICE OF INITIAL DIRECTORS.** Requires the initial directors for precincts 2 and 3 to serve as initial directors until the first regular meeting of the board of directors held after the first permanent director's election under Section 10 of this Act. Requires the initial directors for precincts 1 and 4 and the initial director representing the district at large to serve as initial directors until the first regular meeting of the board of directors held after the second permanent director's election under Section 10 of this Act.

**SECTION 10. ELECTION OF DIRECTORS.** Requires an election to be held in the district on the first Saturday in May every second year to elect the appropriate number of directors to the board beginning in the second year after the year in which the creation of the district is confirmed at a confirmation election.

**SECTION 11. ADDITIONAL AUTHORITY.** (a) Authorizes the district to contract with one or more state agencies or other governmental bodies, including a county, a river authority, or another district to carry out any function of the district.

(b) Authorizes the district to require a drilling permit before a new well is drilled or an existing well is substantially altered. Requires that, notwithstanding an exemption for a well under Section 36.117 (Exemptions; Exception; Limitations), Water Code, written authorization from the district be received before a new well is drilled or an existing well is substantially altered.

(c) Authorizes the district to participate in the construction, implementation, and maintenance of best management practices for water resource management in the district and to engage in and promote the acceptance of best management practices through education efforts sponsored by the district. Requires construction, implementation, and maintenance of best management practices to address water quantity and quality practices such as brush management, prescribed grazing, recharge structures, water and silt detention and retention structures, plugging of abandoned wells, rainwater harvesting, and other treatment measures for the conservation of water resources.

(d) Authorizes reasonable fees, as determined by the district, to be imposed on an annual basis on each nonexempt well. Requires the district to adopt any rules necessary for the assessment and collection of fees under this subsection.

(e) Authorizes the district to use money collected from fees in a certain manner.

(f) Requires the district to adopt rules providing for granting exemptions from ad valorem taxes on property on which a water conservation initiative has been implemented. Requires the rules

adopted by the district to be consistent with the rules adopted by the comptroller to implement Section 11.32 (Certain Water Conservation Initiatives), Tax Code.

(g) Requires the rules to provide that a retail public utility is eligible to receive an exemption from ad valorem taxes on property on the same grounds as for any other district customer. Requires the rules adopted by the district under Subsection (f), to encourage retail public utilities to obtain water supplies from sources other than groundwater, to include an exemption from ad valorem taxes on property served by a retail public utility based on certain percentages.

(h) Authorizes the district to consider the impact of floods and equipment breakage upon the retail public utility's ability to supply water from sources other than groundwater.

(i) Prohibits the total amount of the exemption from ad valorem taxes from exceeding one-half of the tax imposed by the district.

**SECTION 12. PROHIBITED ACTS.** Prohibits the district from carrying out certain acts.

**SECTION 13. VALIDATION.** (a) Provides that any act or proceeding taken by or on behalf of the Cow Creek Groundwater Conservation District before the effective date of this Act is validated in all respects as if the act or proceeding had occurred as authorized by law.

(b) Provides that Subsection (a) does not apply to any matter that on the effective date of this Act is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or has been held invalid by a final judgment of a court of competent jurisdiction.

**SECTION 14. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.** Sets forth provisions relating to procedural requirements.

**SECTION 15. EXPIRATION DATE; EFFECTIVE DATE.** (a) Provides that if the creation of the district is not confirmed at a confirmation election held under Section 8 of this Act before September 1, 2003, this Act expires on that date.

(b) Effective date: upon passage or September 1, 2001.