

SUBJECT: Revising North Harris County Regional Water Authority

COMMITTEE: Natural Resources — favorable, with amendment

VOTE: 6 ayes — Counts, King, Cook, Hilderbran, R. Lewis, Walker
1 nay — Hope
2 absent — Corte, Puente

WITNESSES: For — Steve Bresnen and Lenox Sigler, North Harris County Regional Water Authority
Against — None

BACKGROUND: The Harris-Galveston Coastal Subsidence District, created in 1975 to regulate groundwater withdrawals and prevent land subsidence, has the authority to restrict pumping and groundwater use in Harris and Galveston counties. The district's 1999 regulatory plan required permittees or groups of permittees operating under a single permit in part of northern Harris County to submit by 2003 a plan for reducing dependence on groundwater. The district called for initial implementation of the plan by 2010.

Largely in response to the requirements of the subsidence district's regulatory plan, the 76th Legislature created the North Harris County Regional Water Authority (HB 2965 by Hilbert) to develop and implement a plan to reduce dependence on groundwater. Voters in the area approved creation of the authority in January 2000.

DIGEST: HB 1110 as amended would revise the statute creating the North Harris County Regional Water Authority.

Excluding some districts from the water authority. HB 1110 would exclude from the water authority's territory a conservation and reclamation district organized under the Texas Constitution, Art. 3, sec. 52, or Art. 16, sec. 59, if any part of the district's territory was located outside the water authority's boundaries as of the effective date of this bill and if the district did not own, lease, or receive water for non-emergency purposes from a well within the water authority's boundaries.

Including some districts in the water authority. The board of directors of a conservation and reclamation district located fully or partially outside the water authority's boundaries could petition the water authority to include the district within the water authority's territory. The petition would have to include a legal description of the territory to be included. The petitioning district would have to assume its share of any outstanding bonds, notes, or other obligations held by the water authority.

The water authority's board of directors would have to hold a hearing to consider the petition within 60 days of receiving it. The board could grant the petition and include the district if:

- ! inclusion of the district was feasible, practicable, and to the advantage of the water authority; and
- ! the water authority's infrastructure was sufficient to supply the added territory without injuring the water authority's existing territory.

If the board granted the petition, it would have to file with the Harris County clerk a copy of the order to include the new territory and a description of the authority's new boundaries. The order would be effective when recorded.

A district that petitioned for inclusion in the water authority's territory before January 1, 2002, would not have to pay an admission fee or reimburse the water authority for activities already undertaken by the water authority. A district that petitioned on or after January 1, 2002, would have pay any fees and reimbursements in effect and applicable at the time of petition.

A district inside the water authority's boundaries would retain its separate identity, powers, and duties, except that it would be subject to the powers and duties of the water authority, including the groundwater reduction and water-supply plan.

Powers and duties. The water authority would have to develop and implement groundwater reduction and water-supply plans to reduce reliance on groundwater. The water authority could amend these plans at its discretion. The plans would have to:

- ! specify measures for reducing groundwater withdrawals;
- ! identify alternative sources for providing water to those affected;

- ! identify rates, terms, and conditions, which would be subject to change, for providing such water;
- ! specify dates and extent to which each person or district would have to reduce or cease reliance on groundwater and accept water from the alternative source;
- ! include other measures consistent with the powers and duties of the authority;
- ! be binding on persons, entities, and wells within the authority's boundaries; and
- ! take effect no later than December 31, 2002.

The water authority could enter into a contract with any person or district outside the authority to include them in the groundwater reduction and water-supply plan. Such contracts would have the same force and effect as if the person or district was located within the authority.

Eminent domain. HB 1110 would amend the current statute to allow the water authority to exercise eminent domain outside as well as inside its boundaries.

Repealing petition for exclusion. HB 1110 would repeal a section of the current statute that allows districts in a specified area of northeast Harris County to petition for exclusion from the water authority and establishes the procedure for doing so.

HB 1110 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, 2001.

**SUPPORTERS
SAY:**

The Harris-Galveston Coastal Subsidence District's 1999 regulatory plan spurred creation of the North Harris County Regional Water Authority. Enactment of HB 1110 is necessary to enable the water authority to comply with the subsidence district's requirements.

Under current law, the water authority lacks the ability to exercise eminent domain outside its boundaries. The subsidence district's regulatory plan requires the water authority to identify alternative sources of water and a plan for conveying the water to its constituents. This water will have to come

from sources outside the water authority's boundaries. Whatever alternative source the water authority identifies, it will have to be able to build facilities outside its boundaries to pump, convey, and treat the water. HB 1110 would give the water authority the power of eminent domain it needs to comply with the subsidence district's requirements.

Currently, entities located within the water authority are not bound clearly by the water authority's plan to meet the subsidence district's requirements. Municipal utility districts (MUDs) and other entities within the water authority could submit their own plans for compliance. This would be counterproductive to the water authority's main purpose, which is to enable submission of one plan for the 400,000 citizens within its territory. HB 1110 would make it clear that the water authority's groundwater reduction and water-supply plan is binding on all wells, MUDs, and other entities located within the water authority.

HB 1110 would fix technical problems with the legislation that created the water authority. Many MUDs' territories were split along the authority's boundaries, i.e., partially included or excluded. This bill would clarify the boundaries by setting out the procedures for split MUDs to be included fully within the water authority. The bill would exclude fully the few split MUDs that do not have wells within the water authority's boundaries.

**OPPONENTS
SAY:**

HB 1110 would make the water authority's regulatory powers too broad. The water authority needs only the regulatory authority necessary to submit a plan for reducing dependence on groundwater to the subsidence district. This bill would create the potential for two entities to regulate groundwater in the same area. HB 1110 would obscure the regulatory relationship between the water authority and the subsidence district.

By authorizing the water authority to exercise eminent domain outside its boundaries, HB 1110 would allow the water authority to tap into the limited water resources of other areas, even those outside Harris County. Also, the bill would not limit this new eminent-domain power to water-related activities. The water authority should not have the power to inconvenience private citizens, property owners, and businesses that may lie in the path of any project it decides to pursue.

HB 1110 would restrict MUDs' flexibility to enter into their own contracts to

comply with the subsidence district's regulatory plan. On their own, such districts may be able to negotiate better contracts to meet the particular needs of their constituents than what they would be bound to by the water authority. This bill would bind MUDs to a plan that may not be the best available option for their constituents.

NOTES:

The committee amended the filed version of HB 1110 to specify that a conservation and reclamation district located outside the water authority's territory as of the effective date could not be included in the water authority's territory if it did not own, lease, or receive water "for non-emergency purposes."

Rep. Ron Lewis plans to offer a floor amendment to HB 1110 that would limit the water authority's power of eminent domain outside of its boundaries. Under this amendment, the water authority could exercise eminent domain outside its boundaries to acquire property for purposes of pumping, treating, storing, and transporting water, but not to condemn land for the purpose of acquiring groundwater rights. The authority could not use eminent domain to acquire any property owned by the City of Houston or any local government corporation created by the city, nor could the authority use eminent domain to acquire any property within the city's boundaries as of February 1, 2001, except to provide facilities between two points within the authority in an area on either side of Greens Bayou. The authority also could use eminent domain to acquire property within the Houston city limits if it was annexed into the city between January 1, 1962, and January 1, 1964, or if the city granted permission for the authority to condemn an area. The water authority would not have to give bond for appeal or costs in any condemnation suit to which it was a party and would not have to deposit more than the amount of any award in any suit. The authority could elect to condemn either the fee simple or a lesser property interest.

Rep. Lewis plans to introduce a separate floor amendment that would define "groundwater reduction plan" and use this term to replace "groundwater reduction and water supply plan" throughout HB 1110. This amendment would replace sec. 3 of the bill and would authorize the water authority to provide for the reduction of groundwater withdrawals by developing, implementing, or enforcing a groundwater reduction plan that would bind all persons, districts, and wells within the water authority. The amendment would specify that a person or district included in the authority's

groundwater plan by contract could not vote in elections of the authority's board members. The authority could amend the plan subject to the subsidence district's requirements, and the groundwater reduction plan could exceed the subsidence district's minimum requirements.

The companion bill, SB 503 by Lindsay, has been referred to the Senate Natural Resources Committee.