

SUBJECT: Allowing groundwater districts to spend fee revenue for certain purposes

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 8 ayes — Puente, Callegari, Hope, Campbell, R. Cook, Geren, Hamilton,
Hardcastle

0 nays

1 absent — Wolens

WITNESSES: For — C.E. Williams, Panhandle Groundwater District

Against — None

BACKGROUND: Water Code, sec. 36.207 authorizes a groundwater conservation district to use funds from permit fees for any purpose consistent with a district's water management plan, including making grants, loans, or contractual payments to achieve, facilitate, or expedite:

- reductions in groundwater pumping, or
- development or distribution of alternative water supplies.

Water Code, sec. 36.122 authorizes a groundwater district to impose a fee on the export of groundwater out of the district and does not prohibit the district from using export fee revenue to carry out a district's statutory duties or enforce district rules. In some cases, a district's enabling legislation authorizes the district to impose user fees.

The Joint Committee on Water Resources issued its *Interim Report to the 78th Legislature* in November 2002. The report included the committee's recommendation that the Legislature "develop and implement mechanisms to benefit local communities from which water is exported, such as by directing water export fees and/or revenues to local Economic Development Corporations, counties, and school districts to benefit the communities of origin."

DIGEST: HB 1535 would amend Water Code, sec. 36.207 to add export fees and user fees as revenue sources from which a groundwater conservation district was authorized to expend funds for any purpose consistent with a district's water management plan. The bill also would add to the list of purposes consistent with a district's water management plan:

- mitigation projects, or
- other projects intended to benefit district residents, including economic development or educational programs on water use.

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, 2003.

SUPPORTERS SAY: HB 1535 would implement the joint committee's recommendation that the Legislature develop mechanisms to benefit local communities from which water is exported. As Texas' growing urban population demands an increasingly larger share of the state's water resources, exporting groundwater from rural areas to cities is expected to become more common. However, the flow of groundwater from the countryside to the cities represents a loss of economic opportunity for rural areas, especially in agricultural communities. The bill would allow groundwater conservation districts to direct export fee revenue to economic development or other projects in the community.

The bill also would allow groundwater districts to use fee revenue for mitigation purposes. Districts could use the money to compensate landowners for harm caused by the export of groundwater. For example, if a water exporter pumped enough groundwater from a well field so that the water table extending beneath adjacent properties dropped below the reach of shallow water wells, such as windmills, the district could provide funds to the adjacent property owners to extend the depth of their wells.

HB 1535 would allow local control over the use of export and user fee revenue. A groundwater district would be a more appropriate entity than the Legislature to determine how to spend funds for the benefit of the community. Instead of attempting to specify every foreseeable purpose for which such money could be used, the bill would give a district discretion over how best to spend fee revenue to benefit the community.

The bill would be permissive. It would not require a district to use fee revenue for mitigation, economic development, or community projects. A district's primary responsibility still would be to manage and conserve groundwater resources.

**OPPONENTS
SAY:**

HB 1535 could lead to problems with potential misuse of funds if a district accumulated a lot of money through export or other fee revenue. Because the bill does not specify or restrict how funds for projects intended to benefit district residents should be spent, the new spending authority that would be granted by the bill could be abused.

The bill could allow a district to be pressured into spending money on frivolous economic development or other projects. Many districts already do not have enough money to carry out the technical analyses necessary to manage properly their groundwater resources. Revenue from export fees would better be spent on monitoring of aquifers or other groundwater management activities.