

## **BILL ANALYSIS**

C.S.H.B. 2407  
By: Miller, Doug  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that the state faces difficult challenges in developing water policies that serve both state and regional interests and that, in recognition of certain local groundwater supply limitations, the Hill Country Priority Groundwater Management Area was designated a number of years ago to include territory in Comal County and surrounding areas. The parties further note that while groundwater conservation districts have been created in the surrounding areas, a portion of Comal County lacks such a district, and the parties assert the need for a district in that area in order to plan, develop, and regulate the use of water in the area. C.S.H.B. 2407 seeks to address this need.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2407 amends the Special District Local Laws Code to create the Comal Trinity Groundwater Conservation District, the boundaries of which are coextensive with the boundaries of Comal County excluding any territory that is included in the boundaries of the Trinity Glen Rose Groundwater Conservation District. The bill provides for governance of the district by a board of seven directors to be appointed by the Comal County Commissioners Court not later than December 31, 2015. The bill provides for, among other provisions, contracting authority, best management practices for water resource management, production limits and permits for certain wells drilled into or through the Trinity Aquifer, and well measuring devices. The bill prohibits the district from requiring the owner of a well exempt from permitting to install a meter or measuring device on the well and also prohibits the district from assessing and collecting a production fee on wells exempt from permitting. The bill exempts a well from the requirement to obtain a withdrawal permit if the well is used solely for domestic use or for providing water for livestock or poultry regardless of land lot size and is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day; is not capable of producing more than 10,000 gallons of water a day; or is metered and does not produce more than 10 acre-feet of water in a calendar year. The bill establishes that the district does not have certain taxing authority granted by Water Code groundwater conservation district provisions and prohibits the district from exercising the power of eminent domain.

C.S.H.B. 2407 authorizes the district to set a reasonable fee for administrative management on a per well basis. The bill authorizes the district to set a fee for administrative management on a well used solely for domestic or livestock purposes in an amount capped at \$15 per well per year

and on a well that is exempt from permitting and that is not used solely for domestic or livestock purposes in an amount capped at \$50 per well per year. The bill authorizes the district to impose reasonable production fees on each well that is not exempt from permitting based on the amount of water actually withdrawn from the well and caps a production fee at \$1 per acre-foot for groundwater used for agricultural purposes or \$40 per acre-foot for groundwater used for any other purpose.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2407 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8875 to read as follows:

CHAPTER 8875. COMAL TRINITY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8875.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Commissioners court" means the Comal County Commissioners Court.

(3) "Director" means a member of the board.

(4) "District" means the Comal Trinity Groundwater Conservation District.

(5) "Domestic use" means residential household use.

(6) "Exempt well" means:

(A) a well incapable of producing more than 10,000 gallons of groundwater a day;

(B) a metered well that produces not more than 10 acre-feet of groundwater in a calendar year; or

(C) a well that is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day and produces water for domestic use or for livestock or poultry, regardless of land lot size.

(7) "Existing well" means a well drilled into

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8875 to read as follows:

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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8875.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Commissioners court" means the Comal County Commissioners Court.

(4) "Director" means a member of the board.

(5) "District" means the Comal Trinity Groundwater Conservation District.

*(See Sec. 8875.106 below.)*

or through the Trinity Aquifer on or before the effective date of the Act enacting this chapter.

(8) "New well" means a well drilled into or through the Trinity Aquifer after the effective date of the Act enacting this chapter.

(9) "Trinity Aquifer" means the Trinity Group of aquifers, including the Upper Trinity, consisting of the upper Glen Rose Limestone; the Middle Trinity, consisting of the lower member of the Glen Rose Limestone, the Hensell Sand, and the Cow Creek Limestone; and the Lower Trinity, consisting of the Sligo Limestone and Hosston Sand.

*(See Sec. 8875.105(a)(2) below.)*

(6) "Retail public utility" means a retail public utility as defined by Section 13.002, Water Code, that is providing service in the district.

Sec. 8875.002. NATURE OF DISTRICT.

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Sec. 8875.003. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Comal County, excluding any territory that is included in the boundaries of the Trinity Glen Rose Groundwater Conservation District.

Sec. 8875.003. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Comal County, Texas, except that the district does not include any territory that is included in the boundaries of the Trinity Glen Rose Groundwater Conservation District.

Sec. 8875.004. CONFLICTS OF LAW.

Sec. 8875.004. CONFLICTS OF LAW.

SUBCHAPTER B. BOARD OF DIRECTORS

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Sec. 8875.051. APPOINTMENT OF DIRECTORS. (a) The district is governed by a board of seven directors appointed by the commissioners court as follows:

Sec. 8875.051. COMPOSITION OF BOARD. The district is governed by a board of seven appointed directors.

(1) three directors from the incorporated areas of Comal County; and

Sec. 8875.052. TERMS AND APPOINTMENT OF DIRECTORS. (a) Directors serve staggered four-year terms. Directors are appointed by the commissioners court as follows:

(1) three directors shall be appointed from the incorporated areas of Comal County; and

(2) four directors, one from each of the four commissioners court precincts.

(2) four directors shall be appointed with one director appointed from each of the four commissioners court precincts.

(b) The commissioners court shall, to the degree possible, consider directors familiar with the use of water by industry and commerce, municipal and rural utilities,

(b) To be appointed under this section, a person:

(1) must be a registered voter of Comal County; and

agriculture, and private wells.

(c) A person appointed as a director must be a registered voter of Comal County.

(d) A vacancy on the board shall be filled by the commissioners court. A qualified person to fill a vacancy shall be appointed to serve for the remainder of the unexpired term.

(e) The commissioners court shall appoint the district's initial directors not later than December 31, 2015.

Sec. 8875.052. ORGANIZATIONAL MEETING OF DIRECTORS. (a) As soon as practicable after all the directors have qualified under Section 36.055, Water Code, a majority of the directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. At the meeting, the directors shall elect a chair, vice chair, secretary, and treasurer from among the directors.

(b) The initial directors shall draw lots to determine which two directors shall serve a four-year term, which two directors shall serve a three-year term, which two directors shall serve a two-year term, and which director shall serve a one-year term. Subsequent directors shall serve staggered four-year terms.

Sec. 8875.053. RULES AND FEES. The board may adopt rules and assess fees to manage and operate the district.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8875.101. DISTRICT POWERS AND DUTIES.

Sec. 8875.102. CONTRACTS. The district may contract with a state agency or political subdivision, including, but not limited to, a county, municipality, river authority, or another district, to carry out any function of the district.

Sec. 8875.103. BEST MANAGEMENT PRACTICES.

Sec. 8875.104. LIMITATIONS ON

(2) to the extent practicable, should be familiar with the use of water by industry and commerce, municipal and rural utilities, agriculture, and private wells.

Sec. 8875.053. VACANCIES. If there is a vacancy on the board, the commissioners court shall appoint a person to fill the vacancy for the remainder of the term in a manner that meets the representational requirements of Section 8875.052.

*(See SECTION 2 below.)*

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8875.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES.

Sec. 8875.102. CONTRACTS. The district may contract with a state agency or political subdivision, including a municipality, a county, a river authority, or another district, to carry out any function of the district.

Sec. 8875.103. BEST MANAGEMENT PRACTICES.

Sec. 8875.104. LIMITATIONS ON

DISTRICT POWERS. (a) The district may not:

(1) require the owner of an exempt well to install a meter or measuring device on the well;

(2) except as provided by Subdivision (3), and notwithstanding Section 36.122, Water Code, allow the sale, transport, or export of groundwater produced from a well inside the district to a person or location outside the district;

(3) prohibit the sale, transport, or export of groundwater produced from a well inside the district to a person located inside the territory covered by the well owner's certificate of public convenience and necessity if the owner of a well with a certificate of public convenience and necessity obtains a permit from the district;  
or

(4) assess and collect a production fee on an exempt well.

(b) The district does not have the authority granted by Sections 36.020 and 36.201-36.204, Water Code, relating to taxes.

Sec. 8875.105. PERMITS.

*(See Sec. 8875.001(9) above.)*

Notwithstanding Section 36.117(j), Water Code:

(1) an existing nonexempt well shall have its annual groundwater production permitted at the well's maximum production capacity and shall not be required to obtain a production permit; and

(2) a new nonexempt well shall obtain a permit from the district.

DISTRICT POWERS. (a) The district may not:

(1) require the owner of a well exempt from permitting to install a meter or measuring device on the well; or

(2) assess and collect a production fee on wells exempt from permitting.

(b) The district does not have the authority granted by Sections 36.020 and 36.201-36.204, Water Code, relating to taxes.

Sec. 8875.105. PRODUCTION LIMITS AND PERMITS FOR CERTAIN WELLS.

(a) In this section:

(1) "Maximum production capacity" means the production capacity of a well that is based on a 36-hour pump test conducted at the time the well was initially constructed or placed into service.

(2) "Trinity Aquifer" means the Trinity group of aquifers, including the:

(A) Upper Trinity, consisting of the Upper Glen Rose Limestone;

(B) Middle Trinity, consisting of the Lower Glen Rose Limestone, the Hensall Sand, and the Cow Creek Limestone; and

(C) Lower Trinity, consisting of the Sligo Limestone and the Hosston Sand.

(b) Notwithstanding Section 36.117(j), Water Code, the district shall issue to an applicant a permit for a well that is not exempt from permitting and that was drilled into or through the Trinity Aquifer on or before the effective date of the Act enacting this chapter that authorizes the production of the well at an amount not less than the maximum production capacity of the well.

(c) Notwithstanding Section 36.117(j), Water Code, a well that is not exempt from permitting and that was drilled into or through the Trinity Aquifer after the

effective date of the Act enacting this chapter requires a permit from the district.

*(See Sec. 8875.001(6) above.)*

Sec. 8875.106. WELL EXEMPTION. A well is exempt from the requirement to obtain a withdrawal permit provided that the well:

(1) is used solely for domestic use or for providing water for livestock or poultry regardless of land lot size and is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2) is not capable of producing more than 10,000 gallons of water a day; or

(3) is metered and does not produce more than 10 acre-feet of water in a calendar year.

Sec. 8875.106. MEASURING DEVICES.

(a) The owner of an existing or new well that is not an exempt well shall install and maintain a water-well meter, or alternative measuring device or method approved by the district, designed to indicate the flow rate and cumulative amount of water withdrawn by that well, on each individual well no later than 36 months after the effective date of the Act enacting this chapter.

(b) A well owner is responsible for the costs of installing, operating, and maintaining measuring devices.

Sec. 8875.107. MEASURING DEVICES.

(a) The owner of a nonexempt well shall install and maintain a water well meter, or alternative measuring device or method approved by the district, designed to indicate the flow rate and cumulative amount of water withdrawn by that well, on each individual well no later than 36 months after the effective date of the Act enacting this chapter.

(b) A well owner is responsible for the costs of installing, operating, and maintaining measuring devices.

Sec. 8875.107. NO EMINENT DOMAIN.

Sec. 8875.108. NO EMINENT DOMAIN.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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Sec. 8875.151. FEES. (a) The district may set fees for administrative acts of the district such as filing applications. Fees set by the district may not unreasonably exceed the cost to the district of performing the administrative function for which the fee is charged. The district may set fees for administrative management on domestic and livestock exempt wells with a cap of \$15 per year per well and a cap of \$50 per year per well on other exempt wells.

Sec. 8875.151. FEES. (a) The district may set a reasonable fee for administrative management on a per well basis.

The district may set a fee for administrative management on:

(1) a well used solely for domestic or livestock purposes in an amount not greater than \$15 per well, per year; and

(2) a well that is exempt from permitting and that is not used solely for domestic or livestock purposes in an amount not greater than \$50 per well, per year.

(b) The district may impose reasonable production fees, based on the amount of groundwater actually produced, on both new

(b) The district may impose reasonable production fees on each well that is not exempt from permitting based on the

and existing nonexempt wells. The district may not impose a production fee in an amount greater than:

(1) \$1 per acre-foot for groundwater used for agricultural purposes; or

(2) \$40 per acre-foot for groundwater used for any other purpose.

(c) The district may use money collected from fees:

(1) in any manner necessary for the management and operation of the district;

(2) to pay all or part of the principal of and interest on district bonds or notes; and

(3) for any purpose consistent with the district's approved water management plan.

*(See Sec. 8875.051(e) above.)*

SECTION 2. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not

amount of water actually withdrawn from the well. The district may not impose a production fee under this subsection in an amount greater than:

(1) \$1 per acre-foot for groundwater used for agricultural purposes; or

(2) \$40 per acre-foot for groundwater used for any other purpose.

SECTION 2. Not later than December 31, 2015, the Comal County Commissioners Court shall appoint the directors of the Comal Trinity Groundwater Conservation District as provided by Section 8875.052, Special District Local Laws Code, as added by this Act.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.