

CHAPTER 1107

S.B. No. 909

AN ACT

relating to the authority of the Harris-Galveston Coastal Subsidence District to require certain cities to convert to surface water use.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 284, Acts of the 64th Legislature, Regular Session, 1975, is amended by adding Sections 19A, 19B, and 36A to read as follows:

Sec. 19A. LIMITATIONS ON CONVERSION TO SURFACE WATER. (a) The board may not issue an order requiring a person to completely or partially discontinue the use of groundwater unless the person is able to acquire a water supply that is composed of surface water needed to replace the water supply covered by the order. Nothing in this section shall limit the board's authority to issue orders, rules, and regulations requiring a person to reduce groundwater use by eliminating waste or implementing water conservation. If the person covered by an order under this subsection acquires an alternative water supply to fulfill the needs created by the board's order under this subsection and files with the commission a written request for monitoring of the alternative supply, the commission shall monitor annually from the date of request to the expiration of the annual permit the water delivered to the person covered by the order to determine the percentage of that water that is surface water and the percentage of that water that is groundwater. The water deliveries must be monitored at random times at all points of connection between the purchaser's and seller's water systems. Samples taken through monitoring must be analyzed by water chemists employed by or contracting with the commission. The water chemist making each analysis shall issue a certified written analysis of the percentages of surface water and groundwater included in the sample. Not later than the 15th day after the last day of each permit year, the commission shall issue an annual certified written analysis based on all of the samples collected that will state the annual average percentage of surface water and the annual average percentage of groundwater provided to the purchaser by the seller for that permit year. In addition to the percentage of groundwater authorized to be used by the board's order, the person may use in the current permit year an additional percentage of groundwater

that is equal to a percentage derived by multiplying the annual average percentage of groundwater delivered to that person during the preceding permit year by the total percentage of alternative water supply mandated by the board's order for the current year. In this section, "alternative water supply" means a water supply that it is necessary for the person to acquire from sources other than its own groundwater supply to comply with the board's order. The commission shall assess reasonable fees to cover the costs of the water sampling and analysis described in this section on the following basis: one-half to the water purchaser and one-half to the water seller. Upon requests, the commission shall make results of the analysis available to the purchaser, the seller, and the board.

Sec. 19B. APPEAL OF SURFACE WATER RATES. *If a person required to convert to surface water purchases that water supply wholesale from a political subdivision as defined by Subsection (b), Section 12.013, Water Code, the rates charged by the political subdivision to that person may be appealed to the commission under Chapter 12, Water Code, and the rules adopted under that chapter apply to appeals under this section. The commission shall convene the hearing on the appeal not later than the 180th day after the date on which the appeal is filed with the commission and shall render a final decision on the appeal not later than the 60th day following the date on which the hearing ends.*

Sec. 36A. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE COMMISSION.
(a) As an alternative to the appeal provided in Section 36 of this Act, a person who is granted a permit authorizing withdrawal of groundwater in an amount less than requested by that person may appeal the board's final decision to the commission. The appeal shall be filed within 60 days after final order of the board. A person shall be informed in the notice of public hearing when an order to convert to surface waters to be considered.

(b) On written request of the person proposing to appeal an order under Subsection (a) of this section, the board shall make written findings and conclusions with respect to the order and shall provide certified copies of the findings and conclusions to the requesting person not later than the 35th day after the date on which the written request is submitted to the board.

(c) The effect of a board order is stayed until the decision of the commission in an appeal under this section is final.

(d) The review on appeal by the commission under this section is governed by the substantial evidence rule as defined by Subsection (e), Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(e) The commission may adopt necessary rules to carry out the provisions of this section.

(f) An appeal from a final decision of the commission is to a district court in Travis County and is governed by the substantial evidence rule. Any party to the proceedings before the commission may appeal a decision of the district court in the manner provided for other civil actions, but a party appealing a decision of a district court is not required to provide an appeal bond.

(g) The review of a commission order on appeal shall be under the substantial evidence rule.

(h) Under this section, the commission may adopt and assess reasonable and necessary fees adequate to recover the costs of the commission in administering this section.

SECTION 2. Section 2, Chapter 284, Acts of the 64th Legislature, Regular Session, 1975, is amended by adding Subdivision (10) to read as follows:

(10) "Commission" means the Texas Water Commission.

SECTION 3. Subsections (a) and (b), Section 5, Chapter 284, Acts of the 64th Legislature, Regular Session, 1975, are amended to read as follows:

(a) The district shall be governed by a board of directors composed of 17 [15] members.

(b) The members of the board shall be chosen as follows:

(1) six members from the city in the district having the largest population of any city in the district, according to the most recent federal census, to be appointed by the mayor of that city, one of these members to be a representative of industry;

(2) one member from the city in the district having the next largest population of any city in the district, according to the most recent federal census, to be appointed by the mayor of that city;

(3) two members from all incorporated cities in Galveston County, appointed by the mayors of those cities;

(4) one member from the city of Baytown, appointed by the mayor of that city;

(5) two members appointed by the Commissioners Court of Harris County, one of these members to be a representative of agriculture and one to be a representative of industry, provided that neither of these members shall be residents of the city in the district having the largest population of any city in the district;

(6) two members appointed by the Commissioners Court of Galveston County; ~~and~~

(7) one member from Harris County chosen by the mayors of the cities of Deer Park, Galena Park, La Porte, Nassau Bay, and Seabrook and the president of the Clear Lake City Water Authority;

(8) *one member from Harris County chosen by the mayors of the cities of West University Place, Southside Place, Bellaire, and Jacinto City; and*

(9) *one member from Harris County chosen by the mayors of the cities of Humble, Piney Point Village, Hedwig Village, Bunker Hill Village, Hunter's Creek Village, Hilshire Village, and the village of Spring Valley.*

SECTION 4. (a) Not later than the 30th day after the effective date of this Act, the general manager of the Harris-Galveston Coastal Subsidence District shall call and hold a meeting at the district's main office for the selection of the two additional directors added to the board of directors of the district by this Act. The general manager shall mail written notice of the time, place, and purpose of the meeting to each person designated in Subdivisions (8) and (9), Subsection (b), Section 5, Chapter 284, Acts of the 64th Legislature, Regular Session, 1975, to choose the additional directors. The notice must be sent by certified mail, return receipt requested, not less than the 10th day before the date set for the meeting.

(b) The initial directors appointed under Subdivisions (8) and (9), Subsection (b), Section 5, Chapter 284, Acts of the 64th Legislature, Regular Session, 1975, shall serve until January 31, 1988. Subsequent directors shall be selected to fill those positions in the manner and for the terms provided by law for selection of other members of the board of directors of the Harris-Galveston Coastal Subsidence District.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 15, 1987, by the following vote: Yeas 30, Nays 0. Passed the House on May 27, 1987, by the following vote: Yeas 147, Nays 0, one present not voting.

Approved June 20, 1987.

Effective June 20, 1987.

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