

By: Christian

H.B. No. 1419

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operations, and financing of the Southeast Texas Groundwater Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

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

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

(3) "District" means the Southeast Texas Groundwater Conservation District.

SECTION 2. CREATION. (a) A groundwater conservation district, to be known as the Southeast Texas Groundwater Conservation District, is created in Jasper and Newton counties subject to approval at a confirmation election held under Section 14 of this Act.

(b) The district is a governmental agency and political subdivision of this state.

SECTION 3. AUTHORITY FOR CREATION. The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

1 (b) All of the land and other property included within the
2 boundaries of the district will be benefited by the works and
3 projects that are to be accomplished by the district under powers
4 conferred by Section 59, Article XVI, Texas Constitution.

5 SECTION 5. BOUNDARIES. The boundaries of the district are
6 coextensive with the boundaries of Jasper and Newton counties.

7 SECTION 6. GENERAL POWERS. (a) Except as provided by this
8 Act, the district has all of the rights, powers, privileges,
9 authority, functions, and duties provided by the general law of
10 this state, including Chapter 36, Water Code, applicable to
11 groundwater conservation districts created under Section 59,
12 Article XVI, Texas Constitution.

13 (b) Chapter 49, Water Code, does not apply to the district.

14 SECTION 7. ADDITIONAL POWERS. (a) The district by rule may
15 require a person to obtain a permit from the district for the
16 transfer of groundwater out of the district consistent with Section
17 36.122, Water Code, and may regulate the terms on which a permit
18 holder may conduct such a transfer.

19 (b) The board by rule may assess a reasonable production fee
20 on each well for which a permit is issued by the district and that is
21 not exempt from regulation by the district. The fee must be based
22 on the amount of water to be withdrawn from the well and may not
23 exceed one cent per thousand gallons for groundwater withdrawn for
24 any purpose.

25 SECTION 8. LIMITATIONS ON POWERS; EXEMPTIONS. (a) The
26 district may not:

27 (1) require a permit for a well incapable of producing

1 more than 25,000 gallons of groundwater a day;

2 (2) impose a tax;

3 (3) exercise the power of eminent domain;

4 (4) issue and sell any bonds or notes in the name of
5 the district that pledge revenue derived from taxation; or

6 (5) purchase groundwater rights unless the purchased
7 rights are acquired for conservation purposes and are permanently
8 held in trust not to be produced.

9 (b) A well meeting the criteria established under Section
10 36.117, Water Code, including a well used for dewatering and
11 monitoring in the production of coal and lignite, is exempt from
12 permit requirements, regulations, and fees imposed by the district.

13 SECTION 9. APPLICABILITY OF OTHER LAW. This Act prevails
14 over any provision of general law that is in conflict or
15 inconsistent with this Act.

16 SECTION 10. BOARD OF DIRECTORS. (a) The district is
17 governed by a board of seven directors. Directors are appointed as
18 provided by Section 12 of this Act. When a county is added to the
19 district, the board may change the number of directors so that an
20 equal number of directors is appointed from each county and one
21 director is appointed jointly by all the counties.

22 (b) Except as provided by Section 11 of this Act, directors
23 serve staggered three-year terms.

24 (c) Each director must qualify to serve as a director in the
25 manner provided by Section 36.055, Water Code.

26 (d) Directors may serve consecutive terms.

27 (e) If there is a vacancy on the board, the governing body of

1 the county or counties that appointed the director who vacated the
2 office shall appoint a director to serve the remainder of the term.
3 The board shall adopt rules or bylaws to establish when a vacancy
4 has occurred.

5 (f) Directors are not entitled to receive compensation for
6 serving as a director but may be reimbursed for actual, reasonable
7 expenses incurred in the discharge of official duties.

8 (g) A majority vote of a quorum is required for board
9 action. If there is a tie vote, the proposed action fails.

10 SECTION 11. INITIAL DIRECTORS. (a) The terms of two
11 initial directors expire on December 31, 2006. The terms of two
12 initial directors expire on December 31, 2005. The terms of the
13 three remaining initial directors, including the director
14 appointed jointly by the counties, expire on December 31, 2004.

15 (b) Subject to Subsection (a) of this section, the three
16 initial directors from each county shall draw lots to determine
17 their terms.

18 SECTION 12. APPOINTMENT OF DIRECTORS. (a) The Jasper
19 County Commissioners Court shall appoint three directors as
20 follows:

21 (1) one to represent the rural water and utilities and
22 small municipal water supply interests;

23 (2) one to represent the large industrial groundwater
24 supply interests of the county; and

25 (3) one to represent large municipal utilities.

26 (b) The Newton County Commissioners Court shall appoint
27 three directors as follows:

1 (1) one to represent the rural water and utilities and
2 small municipal water supply interests;

3 (2) one to represent the forestry or agricultural
4 groundwater supply interests of the county; and

5 (3) one to represent municipalities.

6 (c) The Jasper County Commissioners Court and the Newton
7 County Commissioners Court jointly shall appoint one director to
8 represent the forestry, agricultural, or landowner groundwater
9 interests of both counties. The jointly appointed director shall
10 serve as the presiding officer of the board.

11 (d) In each year following the appointment of the initial
12 directors, the appropriate number of directors shall be appointed.

13 (e) A person is not disqualified from serving as a director
14 because that person is an employee, manager, director, or officer
15 of a groundwater producer that is or may be regulated by the
16 district.

17 (f) If the creation of the district is confirmed at a
18 confirmation election under Section 14 of this Act in only one of
19 the counties:

20 (1) the directors appointed from the county in which
21 the creation of the district is not confirmed and the director
22 appointed jointly by the two commissioners courts are not eligible
23 to serve as directors of the district; and

24 (2) the commissioners court in the county in which the
25 creation of the district is confirmed shall appoint two additional
26 directors, at least one of whom must represent the forestry,
27 agricultural, or landowner groundwater interests of the county.

1 SECTION 13. ORGANIZATIONAL MEETING. As soon as practicable
2 after all the initial directors are appointed as provided by
3 Section 12 of this Act, a majority of the directors shall convene
4 the organizational meeting of the district and take office at that
5 time. The meeting must be convened at a location in the district
6 agreeable to a majority of the directors. If no location can be
7 agreed upon, the organizational meeting shall be held at the Jasper
8 County Courthouse.

9 SECTION 14. CONFIRMATION ELECTION. (a) The initial board
10 of directors shall call and hold an election on the same date in
11 each county within the district to confirm the creation of the
12 district.

13 (b) Except as provided by this Act, a confirmation election
14 must be conducted as provided by Sections 36.017, 36.018, and
15 36.019, Water Code, and Section 41.001, Election Code.

16 (c) If the majority of qualified voters in a county who vote
17 in the election vote to confirm the creation of the district, that
18 county is included in the district. If the majority of qualified
19 voters in a county who vote in the election vote not to confirm the
20 creation of the district, that county is excluded from the
21 district.

22 (d) If the creation of the district is not confirmed by an
23 election held under this section before the second anniversary of
24 the effective date of this Act, the district is dissolved and this
25 Act expires on that date.

26 SECTION 15. ADDITION OF OTHER COUNTIES TO DISTRICT. (a)
27 The commissioners court of an adjacent county that seeks to join the

1 district may petition the district by resolution.

2 (b) If the board finds after a hearing on the resolution
3 that the addition of the county would benefit the district and the
4 county to be added, the board by resolution may approve the addition
5 of the county to the district.

6 (c) The addition of a county to the district under this
7 section is not final until ratified by a majority vote of the
8 qualified voters in the county to be added in an election held for
9 that purpose.

10 (d) The ballots for the election shall be printed to provide
11 for voting for or against the proposition: "The inclusion of
12 _____ County in the Southeast Texas Groundwater Conservation
13 District."

14 (e) The notice of the election, the manner and the time of
15 giving notice, the manner of holding the election, and the
16 qualifications of the voters are governed by the Election Code.

17 SECTION 16. LANDOWNERS' RIGHTS. The rights of landowners
18 and their lessees and assigns in groundwater within the district
19 are recognized. Nothing in this Act shall be construed to deprive
20 or divest the owners or their lessees or assigns of their rights,
21 subject to district rules.

22 SECTION 17. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

23 (a) The legal notice of the intention to introduce this Act,
24 setting forth the general substance of this Act, has been published
25 as provided by law, and the notice and a copy of this Act have been
26 furnished to all persons, agencies, officials, or entities to which
27 they are required to be furnished under Section 59, Article XVI,

1 Texas Constitution, and Chapter 313, Government Code.

2 (b) The governor has submitted the notice and Act to the
3 commission.

4 (c) The commission has filed its recommendations relating
5 to this Act with the governor, lieutenant governor, and speaker of
6 the house of representatives within the required time.

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

11 SECTION 18. EFFECTIVE DATE. This Act takes effect
12 immediately if it receives a vote of two-thirds of all the members
13 elected to each house, as provided by Section 39, Article III, Texas
14 Constitution. If this Act does not receive the vote necessary for
15 immediate effect, this Act takes effect September 1, 2003.