

1-1 By: Hopson (Senate Sponsor - Ogden) H.B. No. 3601  
1-2 (In the Senate - Received from the House May 24, 2003;  
1-3 May 24, 2003, read first time and referred to Committee on Natural  
1-4 Resources; May 26, 2003, reported favorably by the following vote:  
1-5 Yeas 7, Nays 0; May 26, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the creation, administration, powers, duties,  
1-9 operation, and financing of the Houston County Groundwater  
1-10 Conservation District.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. DEFINITIONS. In this Act:

1-13 (1) "Board" means the board of directors of the  
1-14 Houston County Groundwater Conservation District.

1-15 (2) "Designated management area" means an area  
1-16 designated as a management area under Section 35.004, Water Code.

1-17 (3) "Director" means a member of the board.

1-18 (4) "District" means the Houston County Groundwater  
1-19 Conservation District.

1-20 SECTION 2. CREATION. (a) A groundwater conservation  
1-21 district, to be known as the Houston County Groundwater  
1-22 Conservation District, is created in Houston County, subject to  
1-23 approval at a confirmation election under Section 10 of this Act.

1-24 (b) The district is a governmental agency and a political  
1-25 subdivision of this state.

1-26 SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The  
1-27 district is created to serve a public use and benefit.

1-28 (b) The district is created under and is essential to  
1-29 accomplish the purposes of Section 59, Article XVI, Texas  
1-30 Constitution.

1-31 (c) The district is created to:

1-32 (1) provide for the protection, recharging, and  
1-33 prevention of waste of groundwater in the Houston County area;

1-34 (2) control subsidence caused by the withdrawal of  
1-35 water from the groundwater reservoirs in that area; and

1-36 (3) regulate the transport of groundwater out of the  
1-37 boundaries of the district.

1-38 (d) All of the land and other property included within the  
1-39 boundaries of the district will be benefited by the works and  
1-40 projects that are to be accomplished by the district under powers  
1-41 conferred by Section 59, Article XVI, Texas Constitution.

1-42 SECTION 4. BOUNDARIES. The boundaries of the district are  
1-43 coextensive with the boundaries of Houston County, Texas.

1-44 SECTION 5. APPLICABILITY OF OTHER LAW. This Act prevails  
1-45 over any provision of general law that is in conflict or  
1-46 inconsistent with this Act, including any provision of Chapter 36,  
1-47 Water Code.

1-48 SECTION 6. BOARD OF DIRECTORS. (a) The district is  
1-49 governed by a board of nine directors.

1-50 (b) Temporary directors are appointed under Section 7 of  
1-51 this Act and serve until initial directors are elected under  
1-52 Section 10 of this Act.

1-53 (c) Four of the initial directors serve until the first  
1-54 election of permanent directors under Section 11 of this Act. Five  
1-55 of the initial directors serve until the second election of  
1-56 permanent directors under Section 11 of this Act.

1-57 (d) Permanent directors serve staggered four-year terms.

1-58 (e) Each director, including temporary directors, must  
1-59 qualify to serve as director in the manner provided by Section  
1-60 36.055, Water Code.

1-61 (f) A director may serve consecutive terms.

1-62 (g) If there is a vacancy in the office of temporary  
1-63 director, the Houston County Commissioners Court shall appoint a  
1-64 person to fill the vacancy in accordance with the appointment

2-1 method under Section 7 of this Act.

2-2 (h) A director is entitled to receive fees of office of not  
2-3 more than \$50 a day for each day the director actually spends  
2-4 performing the duties of a director. The fees of office may not  
2-5 exceed \$3,000 a year.

2-6 (i) The board may authorize a director to receive  
2-7 reimbursement for the director's reasonable expenses incurred  
2-8 while engaging in activities on behalf of the board.

2-9 (j) A majority vote of a quorum is required for board  
2-10 action. If there is a tie vote, the proposed action fails.

2-11 SECTION 7. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not  
2-12 later than the 45th day after the effective date of this Act:

2-13 (1) the Houston County Commissioners Court shall  
2-14 appoint two temporary directors from each of the four commissioners  
2-15 precincts to represent the precincts in which they reside; and

2-16 (2) the county judge of Houston County shall appoint  
2-17 one temporary director who resides in the district to represent the  
2-18 district at large.

2-19 (b) At least one of the temporary directors must represent  
2-20 the interests of rural water suppliers in the district, and one of  
2-21 the temporary directors must represent agricultural interests in  
2-22 the district.

2-23 SECTION 8. ORGANIZATIONAL MEETING. As soon as practicable  
2-24 after all the temporary directors have qualified according to  
2-25 Section 6(e) of this Act, a majority of the temporary directors  
2-26 shall convene the organizational meeting of the district at a  
2-27 location within the district agreeable to a majority of the  
2-28 directors. If no location can be agreed upon, the organizational  
2-29 meeting shall be at the Houston County Courthouse.

2-30 SECTION 9. METHOD OF ELECTING DIRECTORS: COMMISSIONERS  
2-31 PRECINCTS. (a) The directors of the district shall be elected  
2-32 according to the commissioners precinct method as provided by this  
2-33 section.

2-34 (b) One director shall be elected by the voters of the  
2-35 entire district, and two directors shall be elected from each  
2-36 county commissioners precinct by the voters of that precinct.

2-37 (c) Except as provided by Subsection (e) of this section, to  
2-38 be eligible to be a candidate for or to serve as director at large, a  
2-39 person must be a registered voter in the district. To be a  
2-40 candidate for or to serve as director from a county commissioners  
2-41 precinct, a person must be a registered voter of that precinct.

2-42 (d) A person shall indicate on the application for a place  
2-43 on the ballot:

2-44 (1) the precinct that the person seeks to represent;  
2-45 or

2-46 (2) that the person seeks to represent the district at  
2-47 large.

2-48 (e) When the boundaries of the county commissioners  
2-49 precincts are redrawn after each federal decennial census to  
2-50 reflect population changes, a director in office on the effective  
2-51 date of the change, or a director elected or appointed before the  
2-52 effective date of the change whose term of office begins on or after  
2-53 the effective date of the change, shall serve in the precinct to  
2-54 which elected or appointed even though the change in boundaries  
2-55 places the person's residence outside the precinct for which the  
2-56 person was elected or appointed.

2-57 SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.  
2-58 (a) The temporary directors shall call and hold an election to  
2-59 confirm the creation of the district.

2-60 (b) At the confirmation and initial directors' election,  
2-61 the temporary directors shall have placed on the ballot the name of  
2-62 any candidate filing for an initial director's position and blank  
2-63 spaces to write in the names of other persons. A temporary director  
2-64 who is eligible to be a candidate under Section 9 of this Act may  
2-65 file for a position as an initial director.

2-66 (c) Section 41.001(a), Election Code, does not apply to a  
2-67 confirmation and initial directors' election held as provided by  
2-68 this section.

2-69 (d) Except as provided by this section, a confirmation and

3-1 initial directors' election must be conducted as provided by  
 3-2 Sections 36.017(b)-(i), Water Code, and the Election Code.

3-3 (e) The two initial directors elected to represent each  
 3-4 commissioners precinct shall draw lots to decide which of the two  
 3-5 directors shall serve a term lasting until the first regularly  
 3-6 scheduled election of directors under Section 11 of this Act and  
 3-7 which of the two directors shall serve until the second regularly  
 3-8 scheduled election of directors. The at-large director shall serve  
 3-9 until the second regularly scheduled election of directors.

3-10 (f) If the establishment of the district is not confirmed at  
 3-11 an election held under this section before September 1, 2005, the  
 3-12 district is dissolved, except that:

3-13 (1) any debts incurred shall be paid;  
 3-14 (2) any assets that remain after the payment of debts  
 3-15 shall be transferred to Houston County; and

3-16 (3) the organization of the district shall be  
 3-17 maintained until all debts are paid and remaining assets are  
 3-18 transferred.

3-19 SECTION 11. ELECTION OF DIRECTORS. (a) On the first  
 3-20 Saturday in May of the first even-numbered year after the year in  
 3-21 which the district is authorized to be created at a confirmation  
 3-22 election, an election shall be held in the district for the election  
 3-23 of four directors for the positions held by the four initial  
 3-24 directors serving shorter terms from the confirmation election.

3-25 (b) On the first Saturday in May of each subsequent  
 3-26 even-numbered year following the election, the appropriate number  
 3-27 of directors shall be elected.

3-28 SECTION 12. GENERAL POWERS. Except as otherwise provided  
 3-29 by this Act, the district has all of the rights, powers, privileges,  
 3-30 authority, functions, and duties provided by the general law of  
 3-31 this state, including Chapter 36, Water Code, applicable to  
 3-32 groundwater conservation districts created under Section 59,  
 3-33 Article XVI, Texas Constitution.

3-34 SECTION 13. LIMITATION ON TAXATION. The district may not  
 3-35 impose an ad valorem tax at a rate that exceeds three cents on each  
 3-36 \$100 of assessed valuation of taxable property in the district.

3-37 SECTION 14. FEES. (a) The board may by rule impose  
 3-38 reasonable fees on each well:

3-39 (1) for which a permit is issued by the district; and  
 3-40 (2) that is not exempt from district regulation.

3-41 (b) A production fee may be based on:  
 3-42 (1) the size of column pipe used by the well; or  
 3-43 (2) the amount of water actually withdrawn from the  
 3-44 well, or the amount authorized or anticipated to be withdrawn.

3-45 (c) The board shall base the initial production fee on the  
 3-46 criteria listed in Subsection (b)(2) of this section. The initial  
 3-47 production fee:

3-48 (1) may not exceed:  
 3-49 (A) \$0.25 per acre-foot for water used for  
 3-50 agricultural irrigation; or

3-51 (B) \$0.0425 per thousand gallons for water used  
 3-52 for any other purpose; and

3-53 (2) may be increased at a cumulative rate not to exceed  
 3-54 three percent per year.

3-55 (d) In addition to the production fee authorized under this  
 3-56 section, the district may assess an export fee on groundwater from a  
 3-57 well that is produced for transport outside the district.

3-58 (e) Fees authorized by this section may be:

3-59 (1) assessed annually; and  
 3-60 (2) used to pay the cost of district operations.

3-61 SECTION 15. GROUNDWATER WELLS UNDER RAILROAD COMMISSION  
 3-62 JURISDICTION. (a) Except as provided by this section, a  
 3-63 groundwater well drilled or operated within the district under a  
 3-64 permit issued by the Railroad Commission of Texas is under the  
 3-65 exclusive jurisdiction of the railroad commission and is exempt  
 3-66 from regulation by the district.

3-67 (b) Groundwater produced in an amount authorized by a  
 3-68 railroad commission permit may be used within or exported from the  
 3-69 district without a permit from the district.

4-1 (c) To the extent groundwater is produced in excess of  
4-2 railroad commission authorization, the holder of the railroad  
4-3 commission permit:

4-4 (1) shall apply to the district for the appropriate  
4-5 permit for the excess production; and

4-6 (2) is subject to the applicable regulatory fees.

4-7 (d) The district may impose a production fee or an export  
4-8 fee on groundwater produced from a well that was drilled to support  
4-9 mining activities and that is otherwise exempt from regulation by  
4-10 the district under Subsection (a) of this section if that  
4-11 groundwater is used for municipal purposes or by a public utility.  
4-12 Any fee imposed under this subsection may not exceed the fee imposed  
4-13 on other groundwater producers in the district.

4-14 SECTION 16. EXEMPTION FROM FEES. (a) Except as provided by  
4-15 Subsection (b) of this section, the district may not assess a fee on  
4-16 a well drilled by a nonprofit rural water supply corporation, water  
4-17 district, or other political subdivision if the well's production  
4-18 is for use within the district.

4-19 (b) The district by emergency order of the board may impose  
4-20 a reasonable and temporary production fee on a well described by  
4-21 Subsection (a) of this section if:

4-22 (1) severe drought or other district emergency makes  
4-23 the fee necessary; and

4-24 (2) the term of the order does not exceed 180 days.

4-25 SECTION 17. LIMITATION ON INDEBTEDNESS. The district may  
4-26 issue bonds and notes under Subchapter F, Chapter 36, Water Code,  
4-27 except that the total indebtedness created by that issuance may not  
4-28 exceed \$500,000 at any time.

4-29 SECTION 18. PROHIBITION ON DISTRICT PURCHASE, SALE,  
4-30 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not  
4-31 purchase, sell, transport, or distribute surface water or  
4-32 groundwater for any purpose.

4-33 SECTION 19. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN  
4-34 POWERS. The district may not exercise the power of eminent domain  
4-35 under Section 36.105, Water Code.

4-36 SECTION 20. REGIONAL COOPERATION. To provide for regional  
4-37 continuity, the district shall:

4-38 (1) participate as needed in coordination meetings  
4-39 with other groundwater districts in its designated management area;

4-40 (2) coordinate the collection of data with other  
4-41 groundwater conservation districts in its designated management  
4-42 area in such a way as to achieve relative uniformity of data type  
4-43 and quality;

4-44 (3) coordinate efforts to monitor water quality with  
4-45 other groundwater conservation districts in its designated  
4-46 management area, local governments, and state agencies;

4-47 (4) provide groundwater level data to other  
4-48 groundwater conservation districts in its designated management  
4-49 area;

4-50 (5) investigate any groundwater or aquifer pollution  
4-51 with the intention of locating its source;

4-52 (6) notify other groundwater conservation districts  
4-53 in its designated management area and all appropriate agencies of  
4-54 any groundwater pollution detected;

4-55 (7) annually provide to other groundwater  
4-56 conservation districts in its designated management area an  
4-57 inventory of water wells and an estimate of groundwater production  
4-58 within the district; and

4-59 (8) include other groundwater conservation districts  
4-60 in its designated management area on the mailing lists for district  
4-61 newsletters, seminars, public education events, news articles, and  
4-62 field days.

4-63 SECTION 21. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

4-64 (a) The legal notice of the intention to introduce this Act,  
4-65 setting forth the general substance of this Act, has been published  
4-66 as provided by law, and the notice and a copy of this Act have been  
4-67 furnished to all persons, agencies, officials, or entities to which  
4-68 they are required to be furnished under Section 59, Article XVI,  
4-69 Texas Constitution, and Chapter 313, Government Code.

5-1 (b) The governor has submitted the notice and Act to the  
5-2 Texas Commission on Environmental Quality.

5-3 (c) The Texas Commission on Environmental Quality has filed  
5-4 its recommendations relating to this Act with the governor,  
5-5 lieutenant governor, and speaker of the house of representatives  
5-6 within the required time.

5-7 (d) All requirements of the constitution and laws of this  
5-8 state and the rules and procedures of the legislature with respect  
5-9 to the notice, introduction, and passage of this Act are fulfilled  
5-10 and accomplished.

5-11 SECTION 22. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act  
5-12 takes effect September 1, 2003.

5-13 (b) If the creation of the district is not confirmed at a  
5-14 confirmation election held under Section 10 of this Act before  
5-15 September 1, 2005, this Act expires on that date.

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