

By: Ellis, et al.

H.B. No. 3625

Substitute the following for H.B. No. 3625:

By: Cook of Colorado

C.S.H.B. No. 3625

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the board of directors and the powers of the Lone Star
3 Groundwater Conservation District; validating certain actions and
4 proceedings of the district.

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

6 SECTION 1. Chapter 1321, Acts of the 77th Legislature,
7 Regular Session, 2001, is amended by adding Sections 5A and 5B to
8 read as follows:

9 Sec. 5A. ADDITIONAL POWERS. (a) The district may adopt
10 different rules under Section 36.116, Water Code, for:

11 (1) each aquifer, subdivision of an aquifer, or
12 geologic stratum located in whole or in part within the boundaries
13 of the district; or

14 (2) different geographic areas of an aquifer or
15 subdivision of an aquifer located in whole or in part within the
16 boundaries of the district:

17 (A) if the district finds that conditions in or
18 use of the aquifer differs substantially from one geographic area
19 to another; or

20 (B) to promote better management of the
21 groundwater resources in the district.

22 (b) The district may:

23 (1) establish zones within the boundaries of the
24 district for the purposes of groundwater management and regulation;

1 and

2 (2) implement regulations for each zone as provided by
3 Subsection (a).

4 (c) The district may place more restrictions on the
5 production of groundwater by a person applying for a nonhistoric
6 operating permit than the district places on the production of
7 groundwater by a person under a historic use permit.

8 (d) The district may:

9 (1) establish metering requirements for nonexempt
10 wells; and

11 (2) initiate and enforce a water use fee structure
12 based on the total amount of groundwater authorized to be produced
13 annually under a permit.

14 Sec. 5B. HISTORIC USE PERMITS. (a) The district may
15 protect existing or historic use of groundwater by implementing a
16 claims process in which the district may require an existing or
17 historic user to obtain a historic use permit.

18 (b) To obtain a historic use permit, an existing or historic
19 user must prove the maximum annual amount of groundwater that the
20 user applied to a beneficial use during a period established by the
21 district as the existing and historic use period. If an existing or
22 historic user began using groundwater in the final year of the
23 existing and historic use period, the district may issue a historic
24 use permit to that user based on an extrapolation of the amount of
25 groundwater that the user would have applied to the same beneficial
26 use in a full calendar year.

27 (c) The district may establish as an existing and historic

1 use period a period that:

2 (1) is not less than 5 years nor more than 21 years in
3 length; and

4 (2) ends on or before the date the district publishes
5 notice or adopts rules protecting existing or historic use.

6 (d) The district may define the initial existing and
7 historic use period as the period from January 1, 1992, to the date
8 of first adoption of the district's rules, August 26, 2002.

9 SECTION 2. Section 6, Chapter 1321, Acts of the 77th
10 Legislature, Regular Session, 2001, is amended by amending
11 Subsection (g) and adding Subsection (i) to read as follows:

12 (g) A position on the board shall not be construed to be a
13 civil office of emolument for any purpose, including a purpose
14 described by [in] Section 40, Article XVI, Texas Constitution,
15 except as provided by this subsection. A director may receive a fee
16 of office under Section 36.060, Water Code, only if the director
17 does not hold another office that is a civil office of emolument for
18 purposes of Section 40, Article XVI, Texas Constitution. This
19 subsection prevails over any provision of general or special law to
20 the contrary, including Section 36.060(d), Water Code.

21 (i) Notwithstanding Subsection (g), a director may receive
22 reimbursement of actual expenses as provided by Section 36.060(b),
23 Water Code.

24 SECTION 3. Sections 7(b)-(d), Chapter 1321, Acts of the
25 77th Legislature, Regular Session, 2001, are amended to read as
26 follows:

27 (b) Except as provided by Section 8 of this Act, a director

1 ~~[directors]~~ shall be appointed not later than January 31 of the year
2 in which the current director's term expires in order to begin the
3 new term of office on February 1 ~~[the second Monday in January of~~
4 ~~odd-numbered years]~~. Not later than the 75th ~~[60th]~~ day before that
5 date, the general manager of the district shall mail to each person
6 who is designated in Subsection (a) of this section to make
7 appointments in that particular year written notice that the
8 appointments are due.

9 (c) The persons designated in Subsections (a)(1)-(4) and
10 (6) of this section shall make their appointments and submit in
11 writing the names of their appointments to the district not later
12 than January 15 of the year in which the current director's term
13 expires ~~[Commissioners Court of Montgomery County]~~.

14 (d) Except as provided by Section 8 of this Act, the board
15 shall by rule adopt an appointment process providing for the
16 written submission of votes to the ~~[Commissioners Court of~~
17 ~~Montgomery County and the]~~ district by those persons designated in
18 Subsections (a)(5) and (7)-(8) of this section. The process
19 adopted by the district shall preserve the one vote per mayor and
20 per municipal utility district concept for the appointment of
21 initial directors established by Section 8 of this Act.

22 SECTION 4. Chapter 1321, Acts of the 77th Legislature,
23 Regular Session, 2001, is amended by adding Section 13A to read as
24 follows:

25 Sec. 13A. NONAPPLICABILITY. Section 36.121, Water Code,
26 does not apply to the district.

27 SECTION 5. (a) Any act or proceeding taken by or on behalf

1 of the Lone Star Groundwater Conservation District before the
2 effective date of this Act is validated in all respects as if the
3 act or proceeding had occurred as authorized by law.

4 (b) A governmental act or proceeding of the Lone Star
5 Groundwater Conservation District occurring after an act or
6 proceeding validated by this Act may not be held invalid on the
7 ground that the prior act or proceeding, in the absence of this Act,
8 was invalid.

9 (c) Specifically, the following acts of the Lone Star
10 Groundwater Conservation District are validated as of the dates
11 they occurred:

12 (1) the appointment of initial directors in accordance
13 with Section 8, Chapter 1321, Acts of the 77th Legislature, Regular
14 Session, 2001;

15 (2) the appointment of directors in accordance with
16 Section 7, Chapter 1321, Acts of the 77th Legislature, Regular
17 Session, 2001;

18 (3) the confirmation election held in accordance with
19 Section 10, Chapter 1321, Acts of the 77th Legislature, Regular
20 Session, 2001;

21 (4) the adoption of district rules and amendments to
22 those rules;

23 (5) the establishment and adoption of fees;

24 (6) the protection of existing and historic use by the
25 institution of a permitting process that protects existing and
26 historic users of groundwater and allows new users to apply for
27 operating permits;

1 (7) the establishment of production regulations to
2 manage the groundwater resources in the district; and

3 (8) the establishment of metering requirements
4 necessary to allow the district to serve the purposes for which it
5 was created.

6 (d) This section does not apply to any matter that on the
7 effective date of this Act:

8 (1) is involved in litigation if the litigation
9 ultimately results in the matter being held invalid by a final
10 judgment of a court of competent jurisdiction; or

11 (2) has been held invalid by a final judgment of a
12 court of competent jurisdiction.

13 SECTION 6. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2003.