

By: Ellis

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; and

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

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

17 (b) To obtain a historic use permit, an existing or historic
18 user must prove the maximum annual amount of groundwater that the
19 user applied to a beneficial use during a period established by the
20 district as the existing and historic use period.

21 (c) The district may establish as an existing and historic
22 use period a period that:

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

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

27 (d) The district may define the initial existing and

1 historic use period as the period from January 1, 1992, to the date
2 of first adoption of the district's rules, August 26, 2002.

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

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

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

18 SECTION 3. Sections 7(b)-(d), Chapter 1321, Acts of the
19 77th Legislature, Regular Session, 2001, are amended to read as
20 follows:

21 (b) Except as provided by Section 8 of this Act, a director
22 [directors] shall be appointed not later than January 31 of the year
23 in which the current director's term expires in order to begin the
24 new term of office on February 1 [the second Monday in January of
25 odd-numbered years]. Not later than the 75th [60th] day before that
26 date, the general manager of the district shall mail to each person
27 who is designated in Subsection (a) of this section to make

1 appointments in that particular year written notice that the
2 appointments are due.

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

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

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

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

21 SECTION 5. (a) Any act or proceeding taken by or on behalf
22 of the Lone Star Groundwater Conservation District before the
23 effective date of this Act is validated in all respects as if the
24 act or proceeding had occurred as authorized by law.

25 (b) A governmental act or proceeding of the Lone Star
26 Groundwater Conservation District occurring after an act or
27 proceeding validated by this Act may not be held invalid on the

1 ground that the prior act or proceeding, in the absence of this Act,
2 was invalid.

3 (c) Specifically, the following acts of the Lone Star
4 Groundwater Conservation District are validated as of the dates
5 they occurred:

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

9 (2) the appointment of directors in accordance with
10 Section 7, Chapter 1321, Acts of the 77th Legislature, Regular
11 Session, 2001;

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

15 (4) the adoption of district rules and amendments to
16 those rules;

17 (5) the establishment and adoption of fees;

18 (6) the protection of existing and historic use by the
19 institution of a permitting process that protects existing and
20 historic users of groundwater and allows new users to apply for
21 operating permits;

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

24 (8) the establishment of metering requirements
25 necessary to allow the district to serve the purposes for which it
26 was created.

27 (d) This section does not apply to any matter that on the

1 effective date of this Act:

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

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

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