

By: Madla

S.B. No. 1886

A BILL TO BE ENTITLED

AN ACT

relating to the administration, powers, duties, taxing authority, and operation of the Kinney County Groundwater Conservation District and the development and management of groundwater resources in Kinney County.

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

SECTION 1. Section 2, Chapter 1344, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Subdivision (3) to read as follows:

(3) "Historic use" means the withdrawal and beneficial use of groundwater for any purpose on or before September 1, 2001.

SECTION 2. Chapter 1344, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Sections 5A, 5B, and 5C to read as follows:

Sec. 5A. HISTORIC USE PERMITS. (a) In adopting rules limiting groundwater production, the district shall preserve historic use to the maximum extent practicable.

(b) The owner of a well that has been put to historic use may apply for a historic use permit from the district on or before October 1, 2003. The application must be accompanied by:

(1) an application fee in an amount set by the district; and

(2) a declaration of historic use.

(c) The district shall issue a historic use permit to a well

1 owner for the annual production of groundwater in an amount equal to  
2 the maximum amount of groundwater produced from the well for  
3 beneficial use without waste during any one calendar year of  
4 historic use if the well owner:

5           (1) complies with Subsection (b) of this section; and  
6           (2) establishes historic use by a preponderance of the  
7 evidence.

8           (d) If the period of historic use of a well is less than one  
9 calendar year, the district shall issue a historic use permit to the  
10 well owner for the annual production of groundwater in an amount  
11 equal to the amount of groundwater that would normally be used  
12 beneficially for a calendar year without waste for each purpose for  
13 which the groundwater had actually been used during the period of  
14 historic use.

15           (e) If the district issues a historic use permit, the  
16 district shall issue the permit without a term, and the permit  
17 remains in effect until the permit is abandoned, canceled, or  
18 retired.

19           (f) On written notice to the district identifying each party  
20 or permit involved and without being required to obtain a permit  
21 amendment, the holder of a historic use permit may for any purpose:

22                   (1) lease groundwater rights recognized in the  
23 historic use permit;

24                   (2) transfer, assign, or convey the historic use  
25 permit; or

26                   (3) aggregate groundwater rights recognized in the  
27 historic use permit with groundwater rights recognized in other

1 permits issued by the district, provided that each aggregated right  
2 involves the production of groundwater from the same aquifer  
3 formation and any separate and distinct hydrogeologic unit of the  
4 aquifer formation.

5 Sec. 5B. NEW PERMITS. (a) The district may consider a new  
6 permit application after the district has:

7 (1) acted on all applications for historic use permits  
8 filed under Section 5A of this Act; and

9 (2) implemented a management plan certified under  
10 Section 36.1072, Water Code.

11 (b) The district shall base a decision on a new permit  
12 application, including a decision regarding the imposition of  
13 spacing or production limitations, on specific hydrogeologic  
14 conditions occurring in any separate and distinct hydrogeologic  
15 units within aquifer formations in the district. The district may  
16 not base a decision on a new permit application on the contiguity of  
17 the applicant's surface acreage.

18 (c) As part of its procedures for acting on new permit  
19 applications, the district shall develop a procedure for allowing  
20 an applicant to initiate district action to create a management  
21 zone for an area having hydrogeologic conditions that warrant  
22 special management considerations or a particularized management  
23 scheme.

24 Sec. 5C. METERING AND MEASURING WELL PRODUCTION. (a) A  
25 well that produces 25,000 gallons or less of groundwater a day for  
26 domestic or livestock use is exempt from district rules concerning  
27 metering a well or measuring well production.

1       (b) The district shall pay the costs of purchasing,  
2 installing, and maintaining any meter or measuring device that the  
3 district requires for a well.

4       SECTION 3. Section 6, Chapter 1344, Acts of the 77th  
5 Legislature, Regular Session, 2001, is amended by adding  
6 Subsections (j) and (k) to read as follows:

7       (j) Section 36.056(c), Water Code, does not apply to the  
8 district.

9       (k) A person may not serve as a director or manager of the  
10 district or as an engineer, attorney, or other person providing  
11 professional services to the district if the person:

12           (1) is related within the third degree of affinity or  
13 consanguinity to a person who serves or has served as a director or  
14 manager of the district or as an engineer, attorney, or other person  
15 providing professional services to the district; or

16           (2) is a party to a contract with a person described by  
17 Subdivision (1) of this subsection.

18       SECTION 4. Section 11, Chapter 1344, Acts of the 77th  
19 Legislature, Regular Session, 2001, is amended by amending  
20 Subsection (b) and adding Subsection (d) to read as follows:

21       (b) The district may impose a fee on groundwater ~~[water]~~  
22 exported out of the district. Revenue generated from fees under  
23 this subsection must be used solely for purposes of economic  
24 development and primary and secondary education in the district.  
25 To ensure the fulfillment of those purposes, the district shall  
26 transfer the revenue immediately after collection to the West  
27 Nueces-Las Moras Soil & Water Conservation District #236, which

1 shall manage and dispense the revenue for the purposes stated.

2 (d) Notwithstanding Subsection (c) of this section, the  
3 district may not assess a production fee for a well unless the  
4 district:

5 (1) has issued a permit for the well; and

6 (2) imposes property taxes to pay the maintenance and  
7 operating expenses of the district at the maximum rate permitted by  
8 Subsection (a) of this section, unless the fee is set at a nominal  
9 amount.

10 SECTION 5. (a) Any rules of the Kinney County Groundwater  
11 Conservation District that are inconsistent with this Act are  
12 superseded by this Act.

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