

By: Staples

S.B. No. 1888

Substitute the following for S.B. No. 1888:

By: Hardcastle

C.S.S.B. No. 1888

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation, administration, powers, duties,
3 operation, and financing of the Southeast Texas Groundwater
4 Conservation District.

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

6 SECTION 1. DEFINITIONS. In this Act:

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

9 (2) "District" means the Southeast Texas Groundwater
10 Conservation District.

11 SECTION 2. CREATION. (a) A groundwater conservation
12 district, to be known as the Southeast Texas Groundwater
13 Conservation District, is created in Jasper and Newton counties,
14 subject to approval at a confirmation election under Section 13 of
15 this Act.

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

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

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

23 (b) All of the land and other property included within the
24 boundaries of the district will be benefited by the works and

1 projects that are to be accomplished by the district under powers
2 conferred by Section 59, Article XVI, Texas Constitution.

3 SECTION 5. BOUNDARIES. The boundaries of the district are
4 coextensive with the boundaries of Jasper and Newton counties,
5 Texas.

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

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

18 (b) The district may not require a permit for a well
19 incapable of producing more than 25,000 gallons of groundwater a
20 day.

21 (c) The district may not impose a tax.

22 (d) The district by rule may impose reasonable fees on each
23 well:

24 (1) for which a permit is issued by the district; and

25 (2) that is not exempt from regulation by the
26 district.

27 (e) A fee imposed under Subsection (d) of this section:

1 (1) must be based on the amount of water to be
2 withdrawn from the well; and

3 (2) may not exceed one cent per thousand gallons of
4 groundwater withdrawn for any purpose.

5 (f) A well meeting the criteria established under Section
6 36.117, Water Code, including a well used for dewatering and
7 monitoring in the production of coal or lignite, is exempt from
8 permit requirements, regulations, and fees imposed by the district.

9 (g) The district may not:

10 (1) exercise the power of eminent domain;

11 (2) issue any bonds or other obligations that pledge
12 revenue derived from taxation by the district; or

13 (3) purchase groundwater rights unless the purchased
14 rights are acquired for conservation purposes and are permanently
15 held in trust not to be produced.

16 SECTION 8. APPLICABILITY OF OTHER LAW. (a) This Act
17 prevails over any provision of general law that is in conflict or
18 inconsistent with this Act.

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

20 SECTION 9. BOARD OF DIRECTORS. (a) Except as provided by
21 Section 10(e) of this Act, the district is governed by a board of
22 seven directors. Directors are appointed as provided by Section 10
23 of this Act. When a county is added to the district, the board may
24 change the number of directors so that an equal number of directors
25 are appointed from each county and one director is appointed
26 jointly by the counties.

27 (b) Except for the initial term, all directors serve

1 three-year terms. The terms of two initial directors expire on
2 December 31, 2006. The terms of two initial directors expire on
3 December 31, 2005. The terms of the three remaining directors,
4 including the term of the initial director who will serve as the
5 joint two-county representative, expire on December 31, 2004.

6 (c) In accordance with Subsection (b) of this section, the
7 three initial directors from each county shall draw lots to
8 determine their terms.

9 (d) Each director must qualify to serve as director in the
10 manner provided by Section 36.055, Water Code.

11 (e) Directors may serve consecutive terms.

12 (f) If there is a vacancy on the board, the governing body of
13 the entity that appointed the director who vacated the office shall
14 appoint a director to serve the remainder of the term. The board
15 shall adopt rules or bylaws to establish when a vacancy has
16 occurred.

17 (g) Directors are not entitled to compensation for serving
18 as a director but may be reimbursed for actual, reasonable expenses
19 incurred in the discharge of official duties.

20 (h) A majority vote of a quorum is required for board
21 action. If there is a tie vote, the proposed action fails.

22 SECTION 10. APPOINTMENT OF DIRECTORS. (a) The Jasper
23 County Commissioners Court shall appoint two directors. One
24 director shall represent rural water utilities and small municipal
25 water supply interests, one director shall represent the large
26 industrial groundwater supply interests of the county and large
27 municipal utilities.

1 (b) The Newton County Commissioners Court shall appoint two
2 directors. One director shall represent rural water utilities and
3 small municipal water supply interests, one director shall
4 represent the forestry or agricultural groundwater supply
5 interests of the county.

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

11 (d) The Newton City Council shall appoint one director.

12 (e) The Jasper City Council shall appoint one director.

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

16 (g) If the voters of only one county confirm the
17 establishment of the district at an election under Section 13 of
18 this Act:

19 (1) the directors appointed from the county whose
20 voters did not confirm the establishment of the district and the
21 director appointed jointly by the two commissioners courts are not
22 eligible to serve as directors of the district; and

23 (2) the commissioners court of the county whose voters
24 confirmed establishment of the district shall appoint two
25 additional directors, at least one of whom shall represent the
26 forestry, agricultural, or landowner groundwater supply interests
27 of the county.

1 SECTION 11. ORGANIZATIONAL MEETING. (a) As soon as
2 practicable after all initial directors are appointed, a majority
3 of the directors shall convene the organizational meeting of the
4 district at a location in the district agreeable to a majority of
5 the directors.

6 (b) If no location can be agreed on, the organizational
7 meeting of the directors shall be at the Jasper County Courthouse.

8 (c) The initial directors shall take office at the
9 organizational meeting under this section.

10 SECTION 12. LANDOWNERS' RIGHTS. The rights of landowners
11 and their lessees and assigns in groundwater in the district are
12 recognized. Nothing in this Act shall be construed to deprive or
13 divest the owners or their lessees and assigns of their rights,
14 subject to district rules.

15 SECTION 13. CONFIRMATION ELECTION. (a) The initial board
16 shall hold an election on the same date in each county in the
17 district to confirm establishment of the district.

18 (b) Except as provided by this section, a confirmation
19 election must be conducted in the manner provided by Sections
20 36.017, 36.018, and 36.019, Water Code, and Section 41.001,
21 Election Code.

22 (c) If the majority of qualified voters in a county who vote
23 in the election vote to confirm the establishment of the district,
24 that county is included in the district. If the majority of
25 qualified voters in a county who vote in the election vote against
26 confirming the establishment of the district, that county is
27 excluded from the district.

1 (d) If the establishment of the district is not confirmed by
2 an election held under this section before the second anniversary
3 of the effective date of this Act, the district is dissolved and
4 this Act expires on that second anniversary date.

5 SECTION 14. ADDITION OF OTHER COUNTIES TO DISTRICT. (a) An
6 adjacent county that wishes to join the district shall petition the
7 district by resolution of the commissioners court of the county.

8 (b) If the board finds after a hearing on the resolution
9 that the addition of the county would benefit the district and the
10 county to be added, the board by resolution may approve the addition
11 of the county to the district.

12 (c) The addition of a county to the district under this
13 section is not final until ratified by a majority vote of the
14 qualified voters in the county to be added voting in an election
15 held for that purpose.

16 (d) The ballot for the election shall be printed to provide
17 for voting for or against the proposition: "The inclusion of (name
18 of county) County in the Southeast Texas Groundwater Conservation
19 District."

20 (e) The notice of the election, the manner and the time of
21 giving the notice, the manner of holding the election, and the
22 qualifications of the voters are governed by the Election Code.

23 SECTION 15. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

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

1 they are required to be furnished under Section 59, Article XVI,
2 Texas Constitution, and Chapter 313, Government Code.

3 (b) The governor has submitted the notice and Act to the
4 Texas Commission on Environmental Quality.

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

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

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