

1-1 By: Staples S.B. No. 1888
1-2 (In the Senate - Filed March 27, 2003; March 31, 2003, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 22, 2003, reported favorably by the following vote: Yeas 11,
1-5 Nays 0; April 22, 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 Southeast Texas 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 district.

1-15 (2) "District" means the Southeast Texas Groundwater
1-16 Conservation District.

1-17 SECTION 2. CREATION. (a) A groundwater conservation
1-18 district, to be known as the Southeast Texas Groundwater
1-19 Conservation District, is created in Jasper and Newton counties,
1-20 subject to approval at a confirmation election under Section 13 of
1-21 this Act.

1-22 (b) The district is a governmental agency and a political
1-23 subdivision of this state.

1-24 SECTION 3. AUTHORITY FOR CREATION. The district is created
1-25 under and is essential to accomplish the purposes of Section 59,
1-26 Article XVI, Texas Constitution.

1-27 SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The
1-28 district is created to serve a public use and benefit.

1-29 (b) All of the land and other property included within the
1-30 boundaries of the district will be benefited by the works and
1-31 projects that are to be accomplished by the district under powers
1-32 conferred by Section 59, Article XVI, Texas Constitution.

1-33 SECTION 5. BOUNDARIES. The boundaries of the district are
1-34 coextensive with the boundaries of Jasper and Newton counties,
1-35 Texas.

1-36 SECTION 6. GENERAL POWERS. Except as provided by this Act,
1-37 the district has all of the rights, powers, privileges, authority,
1-38 functions, and duties provided by the general law of this state,
1-39 including Chapter 36, Water Code, applicable to groundwater
1-40 conservation districts created under Section 59, Article XVI, Texas
1-41 Constitution.

1-42 SECTION 7. ADDITIONAL POWERS; LIMITATIONS ON POWERS.

1-43 (a) The district by rule may require a person to obtain a permit
1-44 from the district for the transfer of groundwater out of the
1-45 district consistent with Section 36.122, Water Code, and may
1-46 regulate the terms on which a permit holder under those rules may
1-47 conduct the transfer.

1-48 (b) The district may not require a permit for a well
1-49 incapable of producing more than 25,000 gallons of groundwater a
1-50 day.

1-51 (c) The district may not impose a tax.

1-52 (d) The district by rule may impose reasonable fees on each
1-53 well:

1-54 (1) for which a permit is issued by the district; and

1-55 (2) that is not exempt from regulation by the
1-56 district.

1-57 (e) A fee imposed under Subsection (d) of this section:

1-58 (1) must be based on the amount of water to be
1-59 withdrawn from the well; and

1-60 (2) may not exceed one cent per thousand gallons of
1-61 groundwater withdrawn for any purpose.

1-62 (f) A well meeting the criteria established under Section
1-63 36.117, Water Code, including a well used for dewatering and
1-64 monitoring in the production of coal or lignite, is exempt from

2-1 permit requirements, regulations, and fees imposed by the district.

2-2 (g) The district may not:

2-3 (1) exercise the power of eminent domain;
2-4 (2) issue any bonds or other obligations that pledge
2-5 revenue derived from taxation by the district; or

2-6 (3) purchase groundwater rights unless the purchased
2-7 rights are acquired for conservation purposes and are permanently
2-8 held in trust not to be produced.

2-9 SECTION 8. APPLICABILITY OF OTHER LAW. (a) This Act
2-10 prevails over any provision of general law that is in conflict or
2-11 inconsistent with this Act.

2-12 (b) Chapter 49, Water Code, does not apply to the district.

2-13 SECTION 9. BOARD OF DIRECTORS. (a) Except as provided by
2-14 Section 10(e) of this Act, the district is governed by a board of
2-15 seven directors. Directors are appointed as provided by Section 10
2-16 of this Act. When a county is added to the district, the board may
2-17 change the number of directors so that an equal number of directors
2-18 are appointed from each county and one director is appointed
2-19 jointly by the counties.

2-20 (b) Except for the initial term, all directors serve
2-21 three-year terms. The terms of two initial directors expire on
2-22 December 31, 2006. The terms of two initial directors expire on
2-23 December 31, 2005. The terms of the three remaining directors,
2-24 including the term of the initial director who will serve as the
2-25 joint two-county representative, expire on December 31, 2004.

2-26 (c) In accordance with Subsection (b) of this section, the
2-27 three initial directors from each county shall draw lots to
2-28 determine their terms.

2-29 (d) Each director must qualify to serve as director in the
2-30 manner provided by Section 36.055, Water Code.

2-31 (e) Directors may serve consecutive terms.

2-32 (f) If there is a vacancy on the board, the governing body of
2-33 the entity that appointed the director who vacated the office shall
2-34 appoint a director to serve the remainder of the term. The board
2-35 shall adopt rules or bylaws to establish when a vacancy has
2-36 occurred.

2-37 (g) Directors are not entitled to compensation for serving
2-38 as a director but may be reimbursed for actual, reasonable expenses
2-39 incurred in the discharge of official duties.

2-40 (h) A majority vote of a quorum is required for board
2-41 action. If there is a tie vote, the proposed action fails.

2-42 SECTION 10. APPOINTMENT OF DIRECTORS. (a) The Jasper
2-43 County Commissioners Court shall appoint three directors. One
2-44 director shall represent rural water utilities and small municipal
2-45 water supply interests, one director shall represent the large
2-46 industrial groundwater supply interests of the county, and one
2-47 director shall represent large municipal utilities.

2-48 (b) The Newton County Commissioners Court shall appoint
2-49 three directors. One director shall represent rural water
2-50 utilities and small municipal water supply interests, one director
2-51 shall represent the forestry or agricultural groundwater supply
2-52 interests of the county, and one director shall represent
2-53 municipalities.

2-54 (c) The Jasper County Commissioners Court and the Newton
2-55 County Commissioners Court shall jointly appoint one director to
2-56 represent the forestry, agricultural, or landowner groundwater
2-57 supply interests of both counties. The jointly appointed director
2-58 shall serve as the presiding officer of the board.

2-59 (d) A director is not disqualified from serving because the
2-60 director is an employee, manager, director, or officer of a
2-61 groundwater producer that is or may be regulated by the district.

2-62 (e) If the voters of only one county confirm the
2-63 establishment of the district at an election under Section 13 of
2-64 this Act:

2-65 (1) the directors appointed from the county whose
2-66 voters did not confirm the establishment of the district and the
2-67 director appointed jointly by the two commissioners courts are not
2-68 eligible to serve as directors of the district; and

2-69 (2) the commissioners court of the county whose voters

3-1 confirmed establishment of the district shall appoint two
3-2 additional directors, at least one of whom shall represent the
3-3 forestry, agricultural, or landowner groundwater supply interests
3-4 of the county.

3-5 SECTION 11. ORGANIZATIONAL MEETING. (a) As soon as
3-6 practicable after all initial directors are appointed, a majority
3-7 of the directors shall convene the organizational meeting of the
3-8 district at a location in the district agreeable to a majority of
3-9 the directors.

3-10 (b) If no location can be agreed on, the organizational
3-11 meeting of the directors shall be at the Jasper County Courthouse.

3-12 (c) The initial directors shall take office at the
3-13 organizational meeting under this section.

3-14 SECTION 12. LANDOWNERS' RIGHTS. The rights of landowners
3-15 and their lessees and assigns in groundwater in the district are
3-16 recognized. Nothing in this Act shall be construed to deprive or
3-17 divest the owners or their lessees and assigns of their rights,
3-18 subject to district rules.

3-19 SECTION 13. CONFIRMATION ELECTION. (a) The initial board
3-20 shall hold an election on the same date in each county in the
3-21 district to confirm establishment of the district.

3-22 (b) Except as provided by this section, a confirmation
3-23 election must be conducted in the manner provided by Sections
3-24 36.017, 36.018, and 36.019, Water Code, and Section 41.001,
3-25 Election Code.

3-26 (c) If the majority of qualified voters in a county who vote
3-27 in the election vote to confirm the establishment of the district,
3-28 that county is included in the district. If the majority of
3-29 qualified voters in a county who vote in the election vote against
3-30 confirming the establishment of the district, that county is
3-31 excluded from the district.

3-32 (d) If the establishment of the district is not confirmed by
3-33 an election held under this section before the second anniversary
3-34 of the effective date of this Act, the district is dissolved and
3-35 this Act expires on that second anniversary date.

3-36 SECTION 14. ADDITION OF OTHER COUNTIES TO DISTRICT.
3-37 (a) An adjacent county that wishes to join the district shall
3-38 petition the district by resolution of the commissioners court of
3-39 the county.

3-40 (b) If the board finds after a hearing on the resolution
3-41 that the addition of the county would benefit the district and the
3-42 county to be added, the board by resolution may approve the addition
3-43 of the county to the district.

3-44 (c) The addition of a county to the district under this
3-45 section is not final until ratified by a majority vote of the
3-46 qualified voters in the county to be added voting in an election
3-47 held for that purpose.

3-48 (d) The ballot for the election shall be printed to provide
3-49 for voting for or against the proposition: "The inclusion of (name
3-50 of county) County in the Southeast Texas Groundwater Conservation
3-51 District."

3-52 (e) The notice of the election, the manner and the time of
3-53 giving the notice, the manner of holding the election, and the
3-54 qualifications of the voters are governed by the Election Code.

3-55 SECTION 15. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.
3-56 (a) The legal notice of the intention to introduce this Act,
3-57 setting forth the general substance of this Act, has been published
3-58 as provided by law, and the notice and a copy of this Act have been
3-59 furnished to all persons, agencies, officials, or entities to which
3-60 they are required to be furnished under Section 59, Article XVI,
3-61 Texas Constitution, and Chapter 313, Government Code.

3-62 (b) The governor has submitted the notice and Act to the
3-63 Texas Commission on Environmental Quality.

3-64 (c) The Texas Commission on Environmental Quality has filed
3-65 its recommendations relating to this Act with the governor,
3-66 lieutenant governor, and speaker of the house of representatives
3-67 within the required time.

3-68 (d) All requirements of the constitution and laws of this
3-69 state and the rules and procedures of the legislature with respect

4-1 to the notice, introduction, and passage of this Act are fulfilled
4-2 and accomplished.

4-3 SECTION 16. EFFECTIVE DATE. This Act takes effect
4-4 immediately if it receives a vote of two-thirds of all the members
4-5 elected to each house, as provided by Section 39, Article III, Texas
4-6 Constitution. If this Act does not receive the vote necessary for
4-7 immediate effect, this Act takes effect September 1, 2003.

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