

By: Staples

S.B. No. 1930

A BILL TO BE ENTITLED

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AN ACT

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

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

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

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

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

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

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

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

(b) The district may:

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

1 and

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

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 five years nor more than 21 years  
3 in 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) of this section, a  
22 director may receive reimbursement of actual expenses as provided  
23 by Section 36.060(b), Water Code.

24 SECTION 3. Subsections (b), (c), and (d), Section 7,  
25 Chapter 1321, Acts of the 77th Legislature, Regular Session, 2001,  
26 are amended to read as 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  
2 year in which the current director's term expires in order to begin  
3 the new term of office on February 1 ~~[the second Monday in January~~  
4 ~~of odd-numbered years]~~. Not later than the 75th ~~[60th]~~ day before  
5 that date, the general manager of the district shall mail to each  
6 person 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.