

1-1 By: Staples S.B. No. 1930
1-2 (In the Senate - Filed April 28, 2003; April 29, 2003, read
1-3 first time and referred to Committee on Natural Resources;
1-4 May 5, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; May 5, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1930 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the board of directors and the powers of the Lone Star
1-11 Groundwater Conservation District; validating certain actions and
1-12 proceedings of the district.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Chapter 1321, Acts of the 77th Legislature,
1-15 Regular Session, 2001, is amended by adding Sections 5A and 5B to
1-16 read as follows:

1-17 Sec. 5A. ADDITIONAL POWERS. (a) The district may adopt
1-18 different rules under Section 36.116, Water Code, for:

1-19 (1) each aquifer, subdivision of an aquifer, or
1-20 geologic stratum located in whole or in part within the boundaries
1-21 of the district; or

1-22 (2) different geographic areas of an aquifer or
1-23 subdivision of an aquifer located in whole or in part within the
1-24 boundaries of the district;

1-25 (A) if the district finds that conditions in or
1-26 use of the aquifer differs substantially from one geographic area
1-27 to another; or

1-28 (B) to promote better management of the
1-29 groundwater resources in the district.

1-30 (b) The district may:

1-31 (1) establish zones within the boundaries of the
1-32 district for the purposes of groundwater management and regulation;
1-33 and

1-34 (2) implement regulations for each zone as provided by
1-35 Subsection (a) of this section.

1-36 (c) The district may place more restrictions on the
1-37 production of groundwater by a person applying for a nonhistoric
1-38 operating permit than the district places on the production of
1-39 groundwater by a person under a historic use permit.

1-40 (d) The district may:

1-41 (1) establish metering requirements for nonexempt
1-42 wells; and

1-43 (2) initiate and enforce a water use fee structure
1-44 based on the total amount of groundwater authorized to be produced
1-45 annually under a permit.

1-46 Sec. 5B. HISTORIC USE PERMITS. (a) The district may
1-47 protect existing or historic use of groundwater by implementing a
1-48 claims process in which the district may require an existing or
1-49 historic user to obtain a historic use permit.

1-50 (b) To obtain a historic use permit, an existing or historic
1-51 user must prove the maximum annual amount of groundwater that the
1-52 user applied to a beneficial use during a period established by the
1-53 district as the existing and historic use period. If an existing or
1-54 historic user began using groundwater in the final year of the
1-55 existing and historic use period, the district may issue a historic
1-56 use permit to that user based on an extrapolation of the amount of
1-57 groundwater that the user would have applied to the same beneficial
1-58 use in a full calendar year.

1-59 (c) The district may establish as an existing and historic
1-60 use period a period that:

1-61 (1) is not less than five years nor more than 21 years
1-62 in length; and

1-63 (2) ends on or before the date the district publishes

2-1 notice or adopts rules protecting existing or historic use.

2-2 (d) The district may define the initial existing and
 2-3 historic use period as the period from January 1, 1992, to the date
 2-4 of first adoption of the district's rules, August 26, 2002.

2-5 SECTION 2. Section 6, Chapter 1321, Acts of the 77th
 2-6 Legislature, Regular Session, 2001, is amended by amending
 2-7 Subsection (g) and adding Subsection (i) to read as follows:

2-8 (g) A position on the board shall not be construed to be a
 2-9 civil office of emolument for any purpose, including a purpose
 2-10 described by [in] Section 40, Article XVI, Texas Constitution,
 2-11 except as provided by this subsection. A director may receive a fee
 2-12 of office under Section 36.060, Water Code, only if the director
 2-13 does not hold another office that is a civil office of emolument for
 2-14 purposes of Section 40, Article XVI, Texas Constitution. This
 2-15 subsection prevails over any provision of general or special law to
 2-16 the contrary, including Section 36.060(d), Water Code.

2-17 (i) Notwithstanding Subsection (g) of this section, a
 2-18 director may receive reimbursement of actual expenses as provided
 2-19 by Section 36.060(b), Water Code.

2-20 SECTION 3. Subsections (b), (c), and (d), Section 7,
 2-21 Chapter 1321, Acts of the 77th Legislature, Regular Session, 2001,
 2-22 are amended to read as follows:

2-23 (b) Except as provided by Section 8 of this Act, a director
 2-24 [directors] shall be appointed not later than January 31 of the
 2-25 year in which the current director's term expires in order to begin
 2-26 the new term of office on February 1 [the second Monday in January
 2-27 of odd-numbered years]. Not later than the 75th [60th] day before
 2-28 that date, the general manager of the district shall mail to each
 2-29 person who is designated in Subsection (a) of this section to make
 2-30 appointments in that particular year written notice that the
 2-31 appointments are due.

2-32 (c) The persons designated in Subsections (a)(1)-(4) and
 2-33 (6) of this section shall make their appointments and submit in
 2-34 writing the names of their appointments to the district not later
 2-35 than January 15 of the year in which the current director's term
 2-36 expires [Commissioners Court of Montgomery County].

2-37 (d) Except as provided by Section 8 of this Act, the board
 2-38 shall by rule adopt an appointment process providing for the
 2-39 written submission of votes to the [Commissioners Court of
 2-40 Montgomery County and the] district by those persons designated in
 2-41 Subsections (a)(5) and (7)-(8) of this section. The process
 2-42 adopted by the district shall preserve the one vote per mayor and
 2-43 per municipal utility district concept for the appointment of
 2-44 initial directors established by Section 8 of this Act.

2-45 SECTION 4. Chapter 1321, Acts of the 77th Legislature,
 2-46 Regular Session, 2001, is amended by adding Section 13A to read as
 2-47 follows:

2-48 Sec. 13A. NONAPPLICABILITY. Section 36.121, Water Code,
 2-49 does not apply to the district.

2-50 SECTION 5. (a) Any act or proceeding taken by or on behalf
 2-51 of the Lone Star Groundwater Conservation District before the
 2-52 effective date of this Act is validated in all respects as if the
 2-53 act or proceeding had occurred as authorized by law.

2-54 (b) A governmental act or proceeding of the Lone Star
 2-55 Groundwater Conservation District occurring after an act or
 2-56 proceeding validated by this Act may not be held invalid on the
 2-57 ground that the prior act or proceeding, in the absence of this Act,
 2-58 was invalid.

2-59 (c) Specifically, the following acts of the Lone Star
 2-60 Groundwater Conservation District are validated as of the dates
 2-61 they occurred:

2-62 (1) the appointment of initial directors in accordance
 2-63 with Section 8, Chapter 1321, Acts of the 77th Legislature, Regular
 2-64 Session, 2001;

2-65 (2) the appointment of directors in accordance with
 2-66 Section 7, Chapter 1321, Acts of the 77th Legislature, Regular
 2-67 Session, 2001;

2-68 (3) the confirmation election held in accordance with
 2-69 Section 10, Chapter 1321, Acts of the 77th Legislature, Regular

3-1 Session, 2001;
3-2 (4) the adoption of district rules and amendments to
3-3 those rules;
3-4 (5) the establishment and adoption of fees;
3-5 (6) the protection of existing and historic use by the
3-6 institution of a permitting process that protects existing and
3-7 historic users of groundwater and allows new users to apply for
3-8 operating permits;
3-9 (7) the establishment of production regulations to
3-10 manage the groundwater resources in the district; and
3-11 (8) the establishment of metering requirements
3-12 necessary to allow the district to serve the purposes for which it
3-13 was created.
3-14 (d) This section does not apply to any matter that on the
3-15 effective date of this Act:
3-16 (1) is involved in litigation if the litigation
3-17 ultimately results in the matter being held invalid by a final
3-18 judgment of a court of competent jurisdiction; or
3-19 (2) has been held invalid by a final judgment of a
3-20 court of competent jurisdiction.
3-21 SECTION 6. This Act takes effect immediately if it receives
3-22 a vote of two-thirds of all the members elected to each house, as
3-23 provided by Section 39, Article III, Texas Constitution. If this
3-24 Act does not receive the vote necessary for immediate effect, this
3-25 Act takes effect September 1, 2003.

3-26

* * * * *