

By: Armbrister

S.B. No. 1946

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation, administration, powers, duties,  
3 operation, and financing of the Heritage Groundwater Conservation  
4 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) "Commission" means the Texas Commission on  
10 Environmental Quality.

11 (3) "District" means the Heritage Groundwater  
12 Conservation District.

13 SECTION 2. CREATION. (a) A groundwater conservation  
14 district to be known as the Heritage Groundwater Conservation  
15 District is created in parts of Brooks, Jim Wells, Kleberg, and  
16 Nueces counties, subject to approval at a confirmation election  
17 under Section 12 of this Act.

18 (b) The district is a governmental agency and a political  
19 subdivision of the state.

20 (c) The district is created under and is essential to  
21 accomplish the purposes of Section 59, Article XVI, Texas  
22 Constitution.

23 SECTION 3. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The  
24 district is created to serve a public use and benefit.

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

5 SECTION 4. BOUNDARIES. The boundaries of the district are  
6 as follows:

7 (a) A tract of land known as the Laureles Ranch containing  
8 255,026.53 acres, more or less, in Kleberg and Nueces Counties,  
9 Texas, being more particularly described in an oil, gas, and  
10 mineral lease from the Executors and Trustees under the will of Mrs.  
11 Henrietta M. King, deceased, to Humble Oil & Refining Company dated  
12 September 26, 1933, recorded in Volume 20, pages 1-13, of the Oil  
13 and Gas Lease Records of Nueces County, Texas, and Volume 37, pages  
14 183-189, of the Deed Records of Kleberg County, Texas, said tract  
15 having been described as Item First in said lease to which reference  
16 is here made for a complete description thereof;

17 (b) A tract of land known as the Santa Gertrudis Ranch  
18 containing 203,468.13 acres, more or less, in Kleberg, Jim Wells,  
19 and Brooks Counties, Texas, and composed of two parcels as follows:

20 (1) A parcel of land containing 173,028.90 acres, more  
21 or less, in Kleberg, Jim Wells, and Brooks Counties, being more  
22 particularly described in an oil, gas, and mineral lease from the  
23 Executors and Trustees under the will of Mrs. Henrietta M. King,  
24 deceased, to Humble Oil & Refining Company dated September 26,  
25 1933, recorded in Volume 20, pages 1-13, of the Oil and Gas Lease  
26 Records of Nueces County, Texas, and Volume 37, pages 183-189, of  
27 the Deed Records of Kleberg County, Texas, said tract having been

1 described as Item Second in said lease to which reference is here  
2 made for a complete description thereof; and

3 (2) A parcel of land containing 30,439.23 acres, more  
4 or less, in Kleberg and Jim Wells Counties, Texas, being more  
5 particularly described in an oil, gas, and mineral lease from Alice  
6 G. K. Kleberg to Humble Oil & Refining Company dated September 26,  
7 1933, recorded in Volume 37, page 200-206, of the Deed Records of  
8 Kleberg County, Texas, and in Volume 50, page 166-172, of the Deed  
9 Records of Jim Wells County, Texas, to which reference is here made  
10 for a complete description thereof; and

11 (c) ALL of Farm Lots Twelve (12) and Thirteen (13), in Block  
12 or Section Number Nine (9), of the Kleberg Town and Improvement  
13 Company's Subdivision in Kleberg County, Texas or 74.62 acres more  
14 or less, AND BEING the same property conveyed to John B. Armstrong  
15 and Henrietta L. Armstrong, Trustees by Deed executed by Bessie Y.  
16 Larkin, et al, dated June 10, 1964, and filed for recorded in the  
17 Office of the County Clerk of Kleberg County, Texas, Volume 183,  
18 Pages 524-527; and

19 (d) Lot 3 of Survey 283, A-124, of C.B.& C.N.G.R.R. Co.  
20 according to Mrs. H. M. King Second Subdivision of Rivera Farm  
21 Lands, containing 77.89 acres of land, more or less, and being the  
22 same tract of land that was conveyed to King Ranch by J.F. McCullar  
23 by deed dated November 2, 1943, recorded in Vol. 61, page 90 of the  
24 Deed Records of Kleberg County, Texas.

25 SECTION 5. FINDINGS RELATIVE TO BOUNDARIES. The  
26 legislature finds that the boundaries and field notes of the  
27 district form a closure. If a mistake is made in the field notes or

1 in copying the field notes in the legislative process, the mistake  
2 does not affect in any way:

3 (1) the organization, existence, or validity of the  
4 district;

5 (2) the right of the district to impose taxes; or

6 (3) the legality or operation of the district or the  
7 board.

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

13 SECTION 7. APPLICABILITY OF OTHER LAW. (a) This Act  
14 prevails over any provision of general law that is in conflict or  
15 inconsistent with this Act.

16 (b) Chapter 49, Water Code, and Section 36.121, Water Code,  
17 do not apply to the district.

18 SECTION 8. BOARD OF DIRECTORS. (a) The district is  
19 governed by a board of five directors.

20 (b) Temporary directors serve until initial directors are  
21 appointed under Section 11 of this Act.

22 (c) Initial directors serve until permanent directors are  
23 appointed under Section 10 of this Act.

24 (d) Permanent directors serve staggered four-year terms  
25 beginning on February 1 and ending on January 31.

26 (e) Each director must qualify to serve as director in the  
27 manner provided by Section 36.055, Water Code.

1           (f) To be eligible to serve as a director of the district, a  
2 person must reside on or own land within the boundaries of the  
3 district. A person who is a shareholder of a corporation that owns  
4 land within the boundaries of the district is considered to own land  
5 within the boundaries of the district for purposes of this Act and  
6 is eligible to serve as a director. A person is disqualified to  
7 serve as a director under any requirements or prohibitions in any  
8 general or special law relating to qualifications for directors,  
9 public officers, or public officials if the person meets the  
10 criteria of this subsection.

11           (g) Except for temporary directors, if there is a vacancy in  
12 the office of director, the appropriate appointing entity  
13 designated in Sections 10(b) and (c) of this Act shall appoint a  
14 director who meets the criteria for the vacated position to serve  
15 the remainder of the unexpired term.

16           (h) A director may not receive fees of office but may  
17 receive reimbursement of actual expenses reasonably and  
18 necessarily incurred while engaging in activities on behalf of the  
19 district. The board may limit the amount of reimbursement of actual  
20 expenses a director may receive by rule, bylaw, or resolution. This  
21 subsection prevails over any provision of general or special law to  
22 the contrary, including Section 36.060(d), Water Code.

23           (i) The common-law doctrine of incompatibility does not  
24 disqualify:

25                 (1) an officer or an employee of a political  
26 subdivision from serving as a director of the district; or

27                 (2) a director of the district from serving as a

1 director, officer, or employee of a political subdivision.

2 (j) A position on the board may not be construed to be a  
3 civil office of emolument for any purpose, including a purpose  
4 described by Section 40, Article XVI, Texas Constitution.

5 (k) A person who qualifies to serve on the board shall be  
6 qualified to serve as a director and participate in all votes  
7 relating to the business of the district regardless of any  
8 common-law doctrine or any statutory conflicts of interest,  
9 incompatibility, or similar provision to the contrary. Section  
10 36.058, Water Code, Chapter 171, Local Government Code, and Chapter  
11 573, Government Code, do not apply to the district.

12 SECTION 9. TEMPORARY DIRECTORS. (a) The temporary board  
13 consists of:

- 14 (1) Paul Genho;
- 15 (2) Butch Thompson;
- 16 (3) Scott Moore;
- 17 (4) Gary Don Hopkins; and
- 18 (5) Eloy Quintanilla.

19 (b) If a temporary director fails to qualify for office or  
20 if a vacancy occurs in the office of temporary director, the  
21 temporary directors who have qualified shall appoint a person to  
22 fill the vacancy.

23 SECTION 10. APPOINTMENT OF DIRECTORS. (a) The directors of  
24 the district shall be appointed as provided by this section.

25 (b) The commissioners court of Kleberg County shall appoint  
26 two directors, each of whom shall reside or own land within the  
27 areas described by Section 4(a) of this Act.

1           (c) The governing body of the Santa Gertrudis Independent  
2 School District shall appoint three directors, each of whom shall  
3 reside or own land within the areas described by Sections 4(b) or  
4 (c) of this Act.

5           (d) The appointing entities designated by Subsections (b)  
6 and (c) of this section shall submit the names of the persons  
7 appointed as directors to the district not later than January 1 of  
8 the year in which the term of the newly appointed director begins.

9           SECTION 11. APPOINTMENT OF INITIAL DIRECTORS; TERMS OF  
10 OFFICE. (a) The appropriate number of initial directors shall be  
11 appointed by the appointing entities as provided by Sections 10(b)  
12 and (c) of this Act not later than the 30th day after the date on  
13 which the temporary board files with the commission the results of  
14 the confirmation election that confirms the creation of the  
15 district, as provided by Section 36.017(e), Water Code.

16           (b) The initial directors shall draw lots to determine which  
17 three initial directors serve four-year terms and which two initial  
18 directors serve two-year terms.

19           (c) The terms of office of the initial directors who draw  
20 four-year terms end on the first January 31 following the third  
21 anniversary of the date of the confirmation election that confirms  
22 the creation of the district.

23           (d) The terms of office of the initial directors who draw  
24 two-year terms end on the first January 31 following the first  
25 anniversary of the date of the confirmation election that confirms  
26 the creation of the district.

27           SECTION 12. CONFIRMATION ELECTION. (a) Section 41.001(a),

1 Election Code, does not apply to a confirmation election held as  
2 provided by this section.

3 (b) Except as provided by this Act, a confirmation election  
4 shall be conducted as provided by Sections 36.017(b)-(h), Water  
5 Code.

6 (c) If the creation of the district is not confirmed at a  
7 confirmation election held under this section, the temporary board  
8 may call and hold additional confirmation elections. The temporary  
9 board may call an additional confirmation election not sooner than  
10 the 60th day after the date of a previous confirmation election. If  
11 the creation of the district is not confirmed at a confirmation  
12 election before the fourth anniversary of the effective date of  
13 this Act, this Act expires on that date.

14 SECTION 13. DISTRICT REVENUES. (a) To pay for the  
15 maintenance and operating costs of the district, the district may:

16 (1) impose an ad valorem tax at a rate not to exceed  
17 the amount provided by Section 36.201, Water Code, if the tax is  
18 approved by a majority of voters voting at an election in the  
19 district held for that purpose;

20 (2) assess any fee authorized under Chapter 36, Water  
21 Code;

22 (3) assess an export fee in an amount not to exceed the  
23 amounts specified by Section 36.122(e) or 36.205(d), Water Code,  
24 whichever are greater; and

25 (4) solicit and accept grants or secure loans from any  
26 public or private source.

27 (b) The district may use any funds obtained from taxes or



1 fees for any purpose described by Section 36.207, Water Code, or as  
2 otherwise authorized by general law.

3 SECTION 14. CONTRACTS. The district may enter into  
4 contracts with any person or any public or private entity for any  
5 purpose authorized by law.

6 SECTION 15. EMINENT DOMAIN; ENTERING PRIVATE PROPERTY.  
7 Notwithstanding other law or another provision of this Act:

8 (1) the district may not exercise the power of eminent  
9 domain; and

10 (2) an agent or employee of the district may not enter  
11 private property without the permission of the landowner or the  
12 landowner's agent except to inspect a permitted or registered well  
13 and to ensure compliance with district rules.

14 SECTION 16. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

15 (a) The legal notice of the intention to introduce this Act,  
16 setting forth the general substance of this Act, has been published  
17 as provided by law, and the notice and a copy of this Act have been  
18 furnished to all persons, agencies, officials, or entities to which  
19 they are required to be furnished under Section 59, Article XVI,  
20 Texas Constitution, and Chapter 313, Government Code.

21 (b) The governor has submitted the notice and Act to the  
22 commission.

23 (c) The commission has filed its recommendations relating  
24 to this Act with the governor, lieutenant governor, and speaker of  
25 the house of representatives within the required time.

26 (d) All requirements of the constitution and laws of this  
27 state and the rules and procedures of the legislature with respect

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

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