

By: Lucio

S.B. No. 1947

Substitute the following for S.B. No. 1947:

By: Geren

C.S.S.B. No. 1947

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Heritage Groundwater Conservation District.

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

SECTION 1. DEFINITIONS. In this Act:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

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

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

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

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

SECTION 3. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The 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

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

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

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

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

(e) The tract of land described in Subsection (a) of this section does not include the 1999.96 acre tract of land described in Volume 1386, Pages 193-205, Nueces County Deed Records.

1 SECTION 5. FINDINGS RELATIVE TO BOUNDARIES. The
2 legislature finds that the boundaries and field notes of the
3 district form a closure. If a mistake is made in the field notes or
4 in copying the field notes in the legislative process, the mistake
5 does not affect in any way:

6 (1) the organization, existence, or validity of the
7 district;

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

9 (3) the legality or operation of the district or the
10 board.

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

16 SECTION 7. 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, and Section 36.121, Water Code,
20 do not apply to the district, except that Section 49.223, Water
21 Code, shall apply to the district.

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

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

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

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

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

5 (f) To be eligible to serve as a director of the district, a
6 person must reside on or own land within the boundaries of the
7 district. A person who is a shareholder of a corporation that owns
8 land within the boundaries of the district is considered to own land
9 within the boundaries of the district for purposes of this Act and
10 is eligible to serve as a director. A person is not disqualified to
11 serve as a director under any requirements or prohibitions in any
12 general or special law relating to qualifications for directors,
13 public officers, or public officials if the person meets the
14 criteria of this subsection.

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

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

27 (i) The common-law doctrine of incompatibility does not

1 disqualify:

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

4 (2) a director of the district from serving as a
5 director, officer, or employee of a political subdivision.

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

9 (k) A person who qualifies to serve on the board shall be
10 qualified to serve as a director and participate in all votes
11 relating to the business of the district regardless of any
12 common-law doctrine or any statutory conflicts of interest,
13 incompatibility, or similar provision to the contrary. Section
14 36.058, Water Code, Chapter 171, Local Government Code, and Chapter
15 573, Government Code, do not apply to the district.

16 SECTION 9. TEMPORARY DIRECTORS. (a) The temporary board
17 consists of:

- 18 (1) Paul Genho;
19 (2) Butch Thompson;
20 (3) Scott Moore;
21 (4) Gary Don Hopkins; and
22 (5) Eloy Quintanilla.

23 (b) If a temporary director fails to qualify for office or
24 if a vacancy occurs in the office of temporary director, the
25 temporary directors who have qualified shall appoint a person to
26 fill the vacancy.

27 SECTION 10. APPOINTMENT OF DIRECTORS. (a) The directors

1 of the district shall be appointed as provided by this section.

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

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

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

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

20 (b) The initial directors shall draw lots to determine which
21 three initial directors serve four-year terms and which two initial
22 directors serve two-year terms.

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

27 (d) The terms of office of the initial directors who draw

1 two-year terms end on the first January 31 following the first
2 anniversary of the date of the confirmation election that confirms
3 the creation of the district.

4 SECTION 12. CONFIRMATION ELECTION. (a) Section
5 41.001(a), Election Code, does not apply to a confirmation election
6 held as provided by this section.

7 (b) Except as provided by this Act, a confirmation election
8 shall be conducted as provided by Sections 36.017(b)-(h), Water
9 Code.

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

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

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

22 (2) 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 (3) solicit and accept grants or secure loans from any
26 public or private source.

27 (b) The district may use any funds obtained from fees for

1 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.