

By: Hopson

H.B. No. 1241

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Houston County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8805 to read as follows:

CHAPTER 8805. HOUSTON COUNTY GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8805.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a member of the board.

(3) "District" means the Houston County Groundwater Conservation District.

Sec. 8805.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Houston County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8805.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held before September 1, 2007:

(1) the district is dissolved on September 1, 2007,

1 except that:

2 (A) any debts incurred shall be paid;

3 (B) any assets that remain after the payment of
4 debts shall be transferred to Houston County; and

5 (C) the organization of the district shall be
6 maintained until all debts are paid and remaining assets are
7 transferred; and

8 (2) this chapter expires on September 1, 2010.

9 Sec. 8805.004. INITIAL DISTRICT TERRITORY. The initial
10 boundaries of the district are coextensive with the boundaries of
11 Houston County, Texas.

12 Sec. 8805.005. APPLICABILITY OF OTHER GROUNDWATER
13 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
14 chapter, Chapter 36, Water Code, applies to the district.

15 [Sections 8805.006-8805.020 reserved for expansion]

16 SUBCHAPTER A-1. TEMPORARY PROVISIONS

17 Sec. 8805.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a)
18 Not later than the 45th day after the effective date of this
19 chapter, nine temporary directors shall be appointed as follows:

20 (1) the Houston County Commissioners Court shall
21 appoint eight temporary directors, with two of the temporary
22 directors appointed from each of the four commissioners precincts
23 in the county to represent the precincts in which the temporary
24 directors reside; and

25 (2) the county judge of Houston County shall appoint
26 one temporary director who resides in the district to represent the
27 district at large.

1 (b) Of the temporary directors, at least one director must
2 represent rural water suppliers in the district and one must
3 represent agricultural interests in the district.

4 (c) If there is a vacancy on the temporary board of
5 directors of the district, the authority who appointed the
6 temporary director whose position is vacant shall appoint a person
7 to fill the vacancy in a manner that meets the representational
8 requirements of this section.

9 (d) Temporary directors serve until the earlier of:

10 (1) the time the temporary directors become initial
11 directors as provided by Section 8805.024; or

12 (2) the date this chapter expires under Section
13 8805.003.

14 Sec. 8805.022. ORGANIZATIONAL MEETING OF TEMPORARY
15 DIRECTORS. As soon as practicable after all the temporary
16 directors have qualified under Section 36.055, Water Code, a
17 majority of the temporary directors shall convene the
18 organizational meeting of the district at a location within the
19 district agreeable to a majority of the directors. If an agreement
20 on location cannot be reached, the organizational meeting shall be
21 at the Houston County Courthouse.

22 Sec. 8805.023. CONFIRMATION ELECTION. (a) The temporary
23 directors shall hold an election to confirm the creation of the
24 district.

25 (b) Section 41.001(a), Election Code, does not apply to a
26 confirmation election held as provided by this section.

27 (c) Except as provided by this section, a confirmation

1 election must be conducted as provided by Sections 36.017(b)-(i),
2 Water Code, and the Election Code. The provision of Section
3 36.017(d), Water Code, relating to the election of permanent
4 directors does not apply to a confirmation election under this
5 section.

6 Sec. 8805.024. INITIAL DIRECTORS. (a) If creation of the
7 district is confirmed at an election held under Section 8805.023,
8 the temporary directors of the district become the initial
9 directors of the district and serve on the board of directors until
10 permanent directors are elected under Section 8805.025.

11 (b) The two initial directors representing each of the four
12 commissioners precincts shall draw lots to determine which of the
13 two directors shall serve a term expiring June 1 following the first
14 regularly scheduled election of directors under Section 8805.025,
15 and which of the two directors shall serve a term expiring June 1
16 following the second regularly scheduled election of directors.
17 The at-large director shall serve a term expiring June 1 following
18 the second regularly scheduled election of directors.

19 Sec. 8805.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
20 the uniform election date prescribed by Section 41.001, Election
21 Code, in May of the first even-numbered year after the year in which
22 the district is authorized to be created at a confirmation
23 election, an election shall be held in the district for the election
24 of four directors to replace the initial directors who, under
25 Section 8805.024(b), serve a term expiring June 1 following that
26 election.

27 Sec. 8805.026. EXPIRATION OF SUBCHAPTER. This subchapter

1 expires September 1, 2010.

2 [Sections 8805.027-8805.050 reserved for expansion]

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 8805.051. DIRECTORS; TERMS. (a) The district is
5 governed by a board of nine directors.

6 (b) Directors serve staggered four-year terms, with four or
7 five directors' terms expiring June 1 of each even-numbered year.

8 (c) A director may serve consecutive terms.

9 Sec. 8805.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
10 PRECINCTS. (a) The directors of the district shall be elected
11 according to the commissioners precinct method as provided by this
12 section.

13 (b) One director shall be elected by the voters of the
14 entire district, and two directors shall be elected from each
15 county commissioners precinct by the voters of that precinct.

16 (c) Except as provided by Subsection (e), to be eligible to
17 be a candidate for or to serve as director at large, a person must be
18 a registered voter in the district. To be a candidate for or to
19 serve as director from a county commissioners precinct, a person
20 must be a registered voter of that precinct.

21 (d) A person shall indicate on the application for a place
22 on the ballot:

23 (1) the precinct that the person seeks to represent;

24 or

25 (2) that the person seeks to represent the district at
26 large.

27 (e) When the boundaries of the county commissioners

1 precincts are redrawn after each federal decennial census to
2 reflect population changes, a director in office on the effective
3 date of the change, or a director elected or appointed before the
4 effective date of the change whose term of office begins on or after
5 the effective date of the change, shall serve in the precinct to
6 which elected or appointed even though the change in boundaries
7 places the person's residence outside the precinct for which the
8 person was elected or appointed.

9 Sec. 8805.053. ELECTION DATE. The district shall hold an
10 election to elect the appropriate number of directors on the
11 uniform election date prescribed by Section 41.001, Election Code,
12 in May of each even-numbered year.

13 Sec. 8805.054. COMPENSATION. (a) Sections 36.060(a), (b),
14 and (d), Water Code, do not apply to the district.

15 (b) A director is entitled to receive compensation of not
16 more than \$50 a day for each day the director actually spends
17 performing the duties of a director. The compensation may not
18 exceed \$3,000 a year.

19 (c) The board may authorize a director to receive
20 reimbursement for the director's reasonable expenses incurred
21 while engaging in activities on behalf of the board.

22 Sec. 8805.055. BOARD ACTION. A majority vote of a quorum is
23 required for board action. If there is a tie vote, the proposed
24 action fails.

25 [Sections 8805.056–8805.100 reserved for expansion]

26 SUBCHAPTER C. POWERS AND DUTIES

27 Sec. 8805.101. GROUNDWATER WELLS UNDER RAILROAD COMMISSION

1 JURISDICTION. (a) Except as provided by this section, a
2 groundwater well drilled or operated within the district under a
3 permit issued by the Railroad Commission of Texas is under the
4 exclusive jurisdiction of the railroad commission and is exempt
5 from regulation by the district.

6 (b) Groundwater produced in an amount authorized by a
7 railroad commission permit may be used within or exported from the
8 district without a permit from the district.

9 (c) To the extent groundwater is produced in excess of
10 railroad commission authorization, the holder of the railroad
11 commission permit:

12 (1) shall apply to the district for the appropriate
13 permit for the excess production; and

14 (2) is subject to the applicable regulatory fees.

15 (d) The district may impose a production fee or an export
16 fee on groundwater produced from a well that was drilled to support
17 mining activities and that is otherwise exempt from regulation by
18 the district under Subsection (a) if that groundwater is used for
19 municipal purposes or by a public utility. Any fee imposed under
20 this subsection may not exceed the fee imposed on other groundwater
21 producers in the district.

22 Sec. 8805.102. PROHIBITION ON DISTRICT PURCHASE, SALE,
23 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not
24 purchase, sell, transport, or distribute surface water or
25 groundwater for any purpose.

26 Sec. 8805.103. PROHIBITION ON DISTRICT USE OF EMINENT
27 DOMAIN POWERS. The district may not exercise the power of eminent

1 domain.

2 Sec. 8805.104. REGIONAL COOPERATION. (a) In this section,
3 "designated groundwater management area" means an area designated
4 as a groundwater management area under Section 35.004, Water Code.

5 (b) To provide for regional continuity, the district shall:

6 (1) participate as needed in coordination meetings
7 with other groundwater conservation districts in its designated
8 groundwater management area;

9 (2) coordinate the collection of data with other
10 groundwater conservation districts in its designated groundwater
11 management area in such a way as to achieve relative uniformity of
12 data type and quality;

13 (3) coordinate efforts to monitor water quality with
14 other groundwater conservation districts in its designated
15 groundwater management area, local governments, and state
16 agencies;

17 (4) provide groundwater level data to other
18 groundwater conservation districts in its designated groundwater
19 management area;

20 (5) investigate any groundwater or aquifer pollution
21 with the intention of locating its source;

22 (6) notify other groundwater conservation districts
23 in its designated groundwater management area and all appropriate
24 agencies of any groundwater pollution detected;

25 (7) annually provide to other groundwater
26 conservation districts in its designated groundwater management
27 area an inventory of water wells and an estimate of groundwater

1 production in the district; and

2 (8) include other groundwater conservation districts
3 in its designated groundwater management area on the mailing lists
4 for district newsletters, seminars, public education events, news
5 articles, and field days.

6 [Sections 8805.105-8805.150 reserved for expansion]

7 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

8 Sec. 8805.151. LIMITATION ON TAXES. The district may not
9 levy ad valorem taxes at a rate that exceeds three cents on each
10 \$100 of assessed valuation of taxable property in the district.

11 Sec. 8805.152. FEES. (a) The board by rule may impose
12 reasonable fees on each well:

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

14 (2) that is not exempt from district regulation.

15 (b) A production fee may be based on:

16 (1) the size of column pipe used by the well; or

17 (2) the amount of water actually withdrawn from the
18 well, or the amount authorized or anticipated to be withdrawn.

19 (c) The board shall base the initial production fee on the
20 criteria listed in Subsection (b)(2). The initial production fee:

21 (1) may not exceed:

22 (A) \$0.25 per acre-foot for water used for
23 agricultural irrigation; or

24 (B) \$0.0425 per thousand gallons for water used
25 for any other purpose; and

26 (2) may be increased at a cumulative rate not to exceed
27 three percent per year.

1 (d) In addition to the production fee authorized under this
2 section, the district may assess an export fee on groundwater from a
3 well that is produced for transport outside the district.

4 (e) Fees authorized by this section may be:

5 (1) assessed annually; and

6 (2) used to pay the cost of district operations.

7 Sec. 8805.153. EXEMPTION FROM FEES. (a) Except as provided
8 by Subsection (b), the district may not assess a fee on a well
9 drilled by a nonprofit rural water supply corporation, water
10 district, or other political subdivision if the well's production
11 is for use within the district.

12 (b) The district by emergency order of the board may impose
13 a reasonable and temporary production fee on a well described by
14 Subsection (a) if:

15 (1) severe drought or other district emergency makes
16 the fee necessary; and

17 (2) the term of the order does not exceed 180 days.

18 Sec. 8805.154. LIMITATION ON INDEBTEDNESS. The district
19 may issue bonds and notes under Subchapter F, Chapter 36, Water
20 Code, except that the total indebtedness created by that issuance
21 may not exceed \$500,000 at any time.

22 SECTION 2. (a) The legal notice of the intention to
23 introduce this Act, setting forth the general substance of this
24 Act, has been published as provided by law, and the notice and a
25 copy of this Act have been furnished to all persons, agencies,
26 officials, or entities to which they are required to be furnished
27 under Section 59, Article XVI, Texas Constitution, and Chapter 313,

1 Government Code.

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

4 (c) The Texas Commission on Environmental Quality has filed
5 its recommendations relating to this Act with the governor,
6 lieutenant governor, and speaker of the house of representatives
7 within the required time.

8 (d) All requirements of the constitution and laws of this
9 state and the rules and procedures of the legislature with respect
10 to the notice, introduction, and passage of this Act are fulfilled
11 and accomplished.

12 SECTION 3. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2005.