

By: Staples

S.B. No. 1017

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Lower Trinity Groundwater Conservation District; providing authority to 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 8807 to read as follows:

CHAPTER 8807. LOWER TRINITY GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8807.001. 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 Lower Trinity Groundwater Conservation District.

Sec. 8807.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Liberty, Polk, and San Jacinto Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8807.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8807.023 before September 1, 2007:

(1) the district is dissolved on September 1, 2007, except that:

1           (A) any debts incurred shall be paid;

2           (B) any assets that remain after the payment of  
3 debts shall be transferred to each county in proportion to the  
4 contribution of money made; 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. 8807.004. INITIAL DISTRICT TERRITORY. (a) Except as  
10 provided by Subsection (b), the initial boundaries of the district  
11 are coextensive with the boundaries of Liberty, Polk, and San  
12 Jacinto Counties.

13           (b) If the creation of the district is not confirmed by the  
14 voters of a county at an election held under Section 8807.023, that  
15 county is not included in the district.

16           Sec. 8807.005. ADDITION OF ADJACENT COUNTY TO DISTRICT.  
17 (a) A county adjoining the district may petition to join the  
18 district by resolution of the county commissioners court.

19           (b) If, after a hearing on the resolution, the board finds  
20 that the addition of the county would benefit the district and the  
21 county to be added, the board by resolution may approve the addition  
22 of the county to the district.

23           (c) The addition of a county under this section is not final  
24 until approved by the voters in the county to be added at an  
25 election held for that purpose.

26           (d) The ballots for the election shall be printed to permit  
27 voting for or against the proposition: "The addition of (county's

1 name) to the Lower Trinity Groundwater Conservation District."

2 (e) If a majority of the votes are cast in favor of the  
3 addition of the county to the district, the county is added to the  
4 district, and the district boundaries are adjusted accordingly. If  
5 less than a majority of the votes are cast in favor of the addition  
6 of the county to the district, the county is not added to the  
7 district.

8 Sec. 8807.006. APPLICABILITY OF OTHER GROUNDWATER  
9 CONSERVATION DISTRICT LAW. Except as otherwise provided by this  
10 chapter, Chapter 36, Water Code, applies to the district.

11 [Sections 8807.007-8807.020 reserved for expansion]

12 SUBCHAPTER A1. TEMPORARY PROVISIONS

13 Sec. 8807.021. TEMPORARY DIRECTORS. (a) Not later than the  
14 45th day after the effective date of the Act creating this chapter,  
15 temporary directors shall be appointed in the same manner as  
16 provided by Section 8807.052(a) for permanent directors.

17 (b) If the voters of one county do not confirm the creation  
18 of the district under Section 8807.023:

19 (1) the directors appointed from that county and the  
20 director appointed jointly by the commissioners courts of all three  
21 counties are not eligible to serve as directors of the district; and

22 (2) the commissioners courts in the counties in which  
23 the creation of the district is confirmed shall jointly appoint one  
24 additional director to represent the forestry, agricultural, or  
25 landowner groundwater interests of both counties.

26 (c) If the voters of two counties do not confirm the  
27 creation of the district under Section 8807.023:

1           (1) the directors appointed from those counties and  
2 the director appointed jointly by the commissioners courts of all  
3 three counties are not eligible to serve as directors of the  
4 district; and

5           (2) the commissioners court in the county in which the  
6 creation of the district is confirmed shall appoint one additional  
7 director to represent the forestry, agricultural, or landowner  
8 groundwater interests of that county.

9           (d) If there is a vacancy on the temporary board of  
10 directors, each governing body of the entity that appointed the  
11 director who vacated the office shall appoint a person to fill the  
12 vacancy.

13           (e) Temporary directors serve until the earlier of:

14           (1) the time the temporary directors become initial  
15 directors as provided by Section 8807.024; or

16           (2) the date this chapter expires under Section  
17 8807.003.

18           Sec. 8807.022. ORGANIZATIONAL MEETING OF TEMPORARY  
19 DIRECTORS. As soon as practicable after all the temporary  
20 directors have qualified under Section 36.055, Water Code, a  
21 majority of the temporary directors shall convene the  
22 organizational meeting of the district at a location in the  
23 district agreeable to a majority of the directors. If an agreement  
24 on location cannot be reached, the organizational meeting shall be  
25 at the Polk County Courthouse.

26           Sec. 8807.023. CONFIRMATION ELECTION. (a) The temporary  
27 directors shall hold an election on the same date in Liberty, Polk,

1 and San Jacinto Counties to confirm the creation of the district.

2 (b) Except as provided by this section, a confirmation  
3 election must be conducted as provided by Sections 36.017, 36.018,  
4 and 36.019, Water Code, and by the Election Code. The provision  
5 under Section 36.017(d), Water Code, relating to the election of  
6 permanent directors does not apply to a confirmation election under  
7 this section.

8 Sec. 8807.024. INITIAL DIRECTORS. (a) If creation of the  
9 district is confirmed at an election held under Section 8807.023,  
10 the temporary directors of the district become the initial  
11 directors of the district and serve on the board of directors until  
12 permanent directors are appointed under Section 8807.052.

13 (b) If the district has seven initial directors:

14 (1) the terms of two initial directors expire December  
15 31, 2006;

16 (2) the terms of two initial directors expire December  
17 31, 2007; and

18 (3) the terms of three initial directors, including  
19 the director who was appointed jointly by the three counties,  
20 expire December 31, 2008.

21 (c) If the district has five initial directors:

22 (1) the terms of one initial director from each county  
23 expire December 31, 2006;

24 (2) the terms of one initial director from each county  
25 expire December 31, 2007; and

26 (3) the term of the initial director appointed jointly  
27 by the two counties expires on December 31, 2008.

1       (d) If the district has three initial directors, the term of  
2 one director will expire on December 31 in 2006, 2007, and 2008.

3       (e) The initial directors, excluding the director appointed  
4 jointly by the counties, shall draw lots to determine their terms.

5       Sec. 8807.025. EXPIRATION OF SUBCHAPTER. This subchapter  
6 expires September 1, 2010.

7       [Sections 8807.026-8807.050 reserved for expansion]

8                   SUBCHAPTER B. BOARD OF DIRECTORS

9       Sec. 8807.051. GOVERNING BODY. The district is governed by  
10 a board of directors, which initially shall consist of not fewer  
11 than three and not more than seven directors, appointed as provided  
12 by Section 8807.052.

13       Sec. 8807.052. APPOINTMENT OF DIRECTORS. (a) If the voters  
14 in Liberty, Polk, and San Jacinto Counties confirm the creation of  
15 the district, seven directors shall be appointed as follows:

16               (1) the Liberty County Commissioners Court shall  
17 appoint one director to represent the rural water utilities or the  
18 forestry or agricultural groundwater supply interests of the  
19 county;

20               (2) the Polk County Commissioners Court shall appoint  
21 one director to represent the rural water utilities or the large  
22 industrial groundwater supply interests of the county;

23               (3) the San Jacinto County Commissioners Court shall  
24 appoint one director to represent the rural water utilities or the  
25 forestry or agricultural groundwater supply interests of the  
26 county;

27               (4) the incorporated municipalities of Liberty County

1 shall jointly appoint one director;

2 (5) the incorporated municipalities of Polk County  
3 shall jointly appoint one director;

4 (6) the incorporated municipalities of San Jacinto  
5 County shall jointly appoint one director; and

6 (7) the commissioners courts of Liberty, Polk, and San  
7 Jacinto Counties shall jointly appoint one director to represent  
8 the forestry, agricultural, or landowner groundwater interests of  
9 all three counties.

10 (b) If the voters in two counties confirm the creation of  
11 the district, five directors shall be appointed as follows:

12 (1) the commissioners court in each of those counties  
13 shall appoint a director as provided by Subsection (a);

14 (2) the incorporated municipalities in each of those  
15 counties shall appoint a director as provided by Subsection (a);  
16 and

17 (3) the commissioners courts of the two counties shall  
18 jointly appoint one director to represent the forestry,  
19 agricultural, or landowner groundwater interests of both counties.

20 (c) If the voters in only one county confirm the creation of  
21 the district, three directors shall be appointed as follows:

22 (1) the commissioners court of the county shall  
23 appoint a director as provided by Subsection (a);

24 (2) the incorporated municipalities in the county  
25 shall appoint a director as provided by Subsection (a); and

26 (3) the commissioners court of the county shall  
27 appoint an additional director to represent the forestry,

1 agricultural, or landowner groundwater interests of the county.

2 Sec. 8807.053. CHANGE IN COMPOSITION; ADDITIONAL COUNTY.

3 If a county is added to the district under Section 8807.005, the  
4 board may change the number of directors so that an equal number of  
5 directors is appointed from each county and one director is  
6 appointed jointly by the counties in the district.

7 Sec. 8807.054. TERMS. Directors serve staggered three-year  
8 terms.

9 Sec. 8807.055. VACANCY; RULES. (a) If there is a vacancy  
10 on the board, the governing body of each entity that appointed the  
11 director who vacated shall appoint a director to serve the  
12 remainder of the term.

13 (b) The board shall adopt rules to establish when a vacancy  
14 has occurred.

15 Sec. 8807.056. PRESIDING OFFICER. The jointly appointed  
16 director under Section 8807.052(a)(7) or (b)(3) or the additional  
17 director appointed under Section 8807.052(c)(3) shall serve as the  
18 presiding officer of the board.

19 Sec. 8807.057. QUALIFICATIONS; GROUNDWATER PRODUCER. A  
20 person is not disqualified from serving as a director if that person  
21 is an employee, manager, director, or officer of a groundwater  
22 producer that is or may be regulated by the district.

23 Sec. 8807.058. COMPENSATION; REIMBURSEMENT. (a) A director  
24 is not entitled to receive compensation for serving as a director.

25 (b) A director may receive reimbursement for actual,  
26 reasonable expenses incurred in the discharge of official duties.

27 Sec. 8807.059. VOTING REQUIREMENT. A majority vote of a



1 quorum is required for board action.

2 [Sections 8807.060-8807.100 reserved for expansion]

3 SUBCHAPTER C. POWERS AND DUTIES

4 Sec. 8807.101. PRODUCTION FEES. (a) The district may  
5 assess reasonable fees on each well in the district. The fee:

6 (1) must be based on the amount of water withdrawn from  
7 the well; and

8 (2) may not exceed 5 cents per 1,000 gallons of  
9 groundwater withdrawn for any purpose.

10 (b) This section does not apply to:

11 (1) a well used exclusively for agriculture, as  
12 defined by Section 36.001, Water Code; or

13 (2) an exempt well under Section 8807.102.

14 Sec. 8807.102. WELLS EXEMPT FROM REGULATION. (a) The  
15 district may not require a permit for a well that is:

16 (1) used solely for domestic and livestock purposes;  
17 and

18 (2) incapable of producing more than 25,000 gallons of  
19 groundwater a day.

20 (b) The district may not assess fees on a well that meets the  
21 criteria established under Section 36.117(b), Water Code.

22 Sec. 8807.103. TAXES PROHIBITED. The district may not  
23 impose a tax.

24 Sec. 8807.104. LIMIT ON ISSUANCE OF BONDS. The district may  
25 not issue any bonds or other obligations that pledge revenue  
26 derived from district taxation.

27 Sec. 8807.105. EMINENT DOMAIN. The district may not

1 exercise the power of eminent domain.

2 Sec. 8807.106. LIMIT ON PURCHASE OF GROUNDWATER RIGHTS FOR  
3 CONSERVATION PURPOSES. The district may purchase groundwater  
4 rights only if the purchased rights are acquired for conservation  
5 purposes and are held in trust permanently.

6 SECTION 2. (a) The legal notice of the intention to  
7 introduce this Act, setting forth the general substance of this  
8 Act, has been published as provided by law, and the notice and a  
9 copy of this Act have been furnished to all persons, agencies,  
10 officials, or entities to which they are required to be furnished  
11 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
12 Government Code.

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

15 (c) The Texas Commission on Environmental Quality has filed  
16 its recommendations relating to this Act with the governor,  
17 lieutenant governor, and speaker of the house of representatives  
18 within the required time.

19 (d) All requirements of the constitution and laws of this  
20 state and the rules and procedures of the legislature with respect  
21 to the notice, introduction, and passage of this Act are fulfilled  
22 and accomplished.

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