

1-1 By: Staples S.B. No. 1017
1-2 (In the Senate - Filed March 7, 2005; March 14, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 11, 2005, reported favorably by the following vote: Yeas 11,
1-5 Nays 0; April 11, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of the Lower Trinity Groundwater
1-9 Conservation District; providing authority to issue bonds.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subtitle H, Title 6, Special District Local Laws
1-12 Code, is amended by adding Chapter 8807 to read as follows:

1-13 CHAPTER 8807. LOWER TRINITY GROUNDWATER

1-14 CONSERVATION DISTRICT

1-15 SUBCHAPTER A. GENERAL PROVISIONS

1-16 Sec. 8807.001. DEFINITIONS. In this chapter:

1-17 (1) "Board" means the board of directors of the
1-18 district.

1-19 (2) "Director" means a member of the board.

1-20 (3) "District" means the Lower Trinity Groundwater
1-21 Conservation District.

1-22 Sec. 8807.002. NATURE OF DISTRICT. The district is a
1-23 groundwater conservation district in Liberty, Polk, and San Jacinto
1-24 Counties created under and essential to accomplish the purposes of
1-25 Section 59, Article XVI, Texas Constitution.

1-26 Sec. 8807.003. CONFIRMATION ELECTION REQUIRED. If the
1-27 creation of the district is not confirmed at a confirmation
1-28 election held under Section 8807.023 before September 1, 2007:

1-29 (1) the district is dissolved on September 1, 2007,
1-30 except that:

1-31 (A) any debts incurred shall be paid;

1-32 (B) any assets that remain after the payment of
1-33 debts shall be transferred to each county in proportion to the
1-34 contribution of money made; and

1-35 (C) the organization of the district shall be
1-36 maintained until all debts are paid and remaining assets are
1-37 transferred; and

1-38 (2) this chapter expires on September 1, 2010.

1-39 Sec. 8807.004. INITIAL DISTRICT TERRITORY. (a) Except as
1-40 provided by Subsection (b), the initial boundaries of the district
1-41 are coextensive with the boundaries of Liberty, Polk, and San
1-42 Jacinto Counties.

1-43 (b) If the creation of the district is not confirmed by the
1-44 voters of a county at an election held under Section 8807.023, that
1-45 county is not included in the district.

1-46 Sec. 8807.005. ADDITION OF ADJACENT COUNTY TO DISTRICT.

1-47 (a) A county adjoining the district may petition to join the
1-48 district by resolution of the county commissioners court.

1-49 (b) If, after a hearing on the resolution, the board finds
1-50 that the addition of the county would benefit the district and the
1-51 county to be added, the board by resolution may approve the addition
1-52 of the county to the district.

1-53 (c) The addition of a county under this section is not final
1-54 until approved by the voters in the county to be added at an
1-55 election held for that purpose.

1-56 (d) The ballots for the election shall be printed to permit
1-57 voting for or against the proposition: "The addition of (county's
1-58 name) to the Lower Trinity Groundwater Conservation District."

1-59 (e) If a majority of the votes are cast in favor of the
1-60 addition of the county to the district, the county is added to the
1-61 district, and the district boundaries are adjusted accordingly. If
1-62 less than a majority of the votes are cast in favor of the addition
1-63 of the county to the district, the county is not added to the
1-64 district.

2-1 Sec. 8807.006. APPLICABILITY OF OTHER GROUNDWATER
2-2 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
2-3 chapter, Chapter 36, Water Code, applies to the district.

2-4 [Sections 8807.007-8807.020 reserved for expansion]

2-5 SUBCHAPTER A1. TEMPORARY PROVISIONS

2-6 Sec. 8807.021. TEMPORARY DIRECTORS. (a) Not later than
2-7 the 45th day after the effective date of the Act creating this
2-8 chapter, temporary directors shall be appointed in the same manner
2-9 as provided by Section 8807.052(a) for permanent directors.

2-10 (b) If the voters of one county do not confirm the creation
2-11 of the district under Section 8807.023:

2-12 (1) the directors appointed from that county and the
2-13 director appointed jointly by the commissioners courts of all three
2-14 counties are not eligible to serve as directors of the district; and

2-15 (2) the commissioners courts in the counties in which
2-16 the creation of the district is confirmed shall jointly appoint one
2-17 additional director to represent the forestry, agricultural, or
2-18 landowner groundwater interests of both counties.

2-19 (c) If the voters of two counties do not confirm the
2-20 creation of the district under Section 8807.023:

2-21 (1) the directors appointed from those counties and
2-22 the director appointed jointly by the commissioners courts of all
2-23 three counties are not eligible to serve as directors of the
2-24 district; and

2-25 (2) the commissioners court in the county in which the
2-26 creation of the district is confirmed shall appoint one additional
2-27 director to represent the forestry, agricultural, or landowner
2-28 groundwater interests of that county.

2-29 (d) If there is a vacancy on the temporary board of
2-30 directors, the governing body of each entity that appointed the
2-31 director who vacated the office shall appoint a person to fill the
2-32 vacancy.

2-33 (e) Temporary directors serve until the earlier of:

2-34 (1) the time the temporary directors become initial
2-35 directors as provided by Section 8807.024; or

2-36 (2) the date this chapter expires under Section
2-37 8807.003.

2-38 Sec. 8807.022. ORGANIZATIONAL MEETING OF TEMPORARY
2-39 DIRECTORS. As soon as practicable after all the temporary
2-40 directors have qualified under Section 36.055, Water Code, a
2-41 majority of the temporary directors shall convene the
2-42 organizational meeting of the district at a location in the
2-43 district agreeable to a majority of the directors. If an agreement
2-44 on location cannot be reached, the organizational meeting shall be
2-45 at the Polk County Courthouse.

2-46 Sec. 8807.023. CONFIRMATION ELECTION. (a) The temporary
2-47 directors shall hold an election on the same date in Liberty, Polk,
2-48 and San Jacinto Counties to confirm the creation of the district.

2-49 (b) Except as provided by this section, a confirmation
2-50 election must be conducted as provided by Sections 36.017, 36.018,
2-51 and 36.019, Water Code, and by the Election Code. The provision
2-52 under Section 36.017(d), Water Code, relating to the election of
2-53 permanent directors does not apply to a confirmation election under
2-54 this section.

2-55 Sec. 8807.024. INITIAL DIRECTORS. (a) If creation of the
2-56 district is confirmed at an election held under Section 8807.023,
2-57 the temporary directors of the district become the initial
2-58 directors of the district and serve on the board of directors until
2-59 permanent directors are appointed under Section 8807.052.

2-60 (b) If the district has seven initial directors:

2-61 (1) the terms of two initial directors expire December
2-62 31, 2006;

2-63 (2) the terms of two initial directors expire December
2-64 31, 2007; and

2-65 (3) the terms of three initial directors, including
2-66 the director who was appointed jointly by the three counties,
2-67 expire December 31, 2008.

2-68 (c) If the district has five initial directors:

2-69 (1) the terms of one initial director from each county

3-1 expire December 31, 2006;
3-2 (2) the terms of one initial director from each county
3-3 expire December 31, 2007; and

3-4 (3) the term of the initial director appointed jointly
3-5 by the two counties expires on December 31, 2008.

3-6 (d) If the district has three initial directors, the term of
3-7 one director will expire on December 31 in 2006, 2007, and 2008.

3-8 (e) The initial directors, excluding the director appointed
3-9 jointly by the counties, shall draw lots to determine their terms.

3-10 Sec. 8807.025. EXPIRATION OF SUBCHAPTER. This subchapter
3-11 expires September 1, 2010.

3-12 [Sections 8807.026-8807.050 reserved for expansion]

3-13 SUBCHAPTER B. BOARD OF DIRECTORS

3-14 Sec. 8807.051. GOVERNING BODY. The district is governed by
3-15 a board of directors, which initially shall consist of not fewer
3-16 than three and not more than seven directors, appointed as provided
3-17 by Section 8807.052.

3-18 Sec. 8807.052. APPOINTMENT OF DIRECTORS. (a) If the
3-19 voters in Liberty, Polk, and San Jacinto Counties confirm the
3-20 creation of the district, seven directors shall be appointed as
3-21 follows:

3-22 (1) the Liberty County Commissioners Court shall
3-23 appoint one director to represent the rural water utilities or the
3-24 forestry or agricultural groundwater supply interests of the
3-25 county;

3-26 (2) the Polk County Commissioners Court shall appoint
3-27 one director to represent the rural water utilities or the large
3-28 industrial groundwater supply interests of the county;

3-29 (3) the San Jacinto County Commissioners Court shall
3-30 appoint one director to represent the rural water utilities or the
3-31 forestry or agricultural groundwater supply interests of the
3-32 county;

3-33 (4) the incorporated municipalities of Liberty County
3-34 shall jointly appoint one director;

3-35 (5) the incorporated municipalities of Polk County
3-36 shall jointly appoint one director;

3-37 (6) the incorporated municipalities of San Jacinto
3-38 County shall jointly appoint one director; and

3-39 (7) the commissioners courts of Liberty, Polk, and San
3-40 Jacinto Counties shall jointly appoint one director to represent
3-41 the forestry, agricultural, or landowner groundwater interests of
3-42 all three counties.

3-43 (b) If the voters in two counties confirm the creation of
3-44 the district, five directors shall be appointed as follows:

3-45 (1) the commissioners court in each of those counties
3-46 shall appoint a director as provided by Subsection (a);

3-47 (2) the incorporated municipalities in each of those
3-48 counties shall appoint a director as provided by Subsection (a);
3-49 and

3-50 (3) the commissioners courts of the two counties shall
3-51 jointly appoint one director to represent the forestry,
3-52 agricultural, or landowner groundwater interests of both counties.

3-53 (c) If the voters in only one county confirm the creation of
3-54 the district, three directors shall be appointed as follows:

3-55 (1) the commissioners court of the county shall
3-56 appoint a director as provided by Subsection (a);

3-57 (2) the incorporated municipalities in the county
3-58 shall appoint a director as provided by Subsection (a); and

3-59 (3) the commissioners court of the county shall
3-60 appoint an additional director to represent the forestry,
3-61 agricultural, or landowner groundwater interests of the county.

3-62 Sec. 8807.053. CHANGE IN COMPOSITION; ADDITIONAL COUNTY.
3-63 If a county is added to the district under Section 8807.005, the
3-64 board may change the number of directors so that an equal number of
3-65 directors is appointed from each county and one director is
3-66 appointed jointly by the counties in the district.

3-67 Sec. 8807.054. TERMS. Directors serve staggered three-year
3-68 terms.

3-69 Sec. 8807.055. VACANCY; RULES. (a) If there is a vacancy

4-1 on the board, the governing body of each entity that appointed the
4-2 director who vacated shall appoint a director to serve the
4-3 remainder of the term.

4-4 (b) The board shall adopt rules to establish when a vacancy
4-5 has occurred.

4-6 Sec. 8807.056. PRESIDING OFFICER. The jointly appointed
4-7 director under Section 8807.052(a)(7) or (b)(3) or the additional
4-8 director appointed under Section 8807.052(c)(3) shall serve as the
4-9 presiding officer of the board.

4-10 Sec. 8807.057. QUALIFICATIONS; GROUNDWATER PRODUCER. A
4-11 person is not disqualified from serving as a director if that person
4-12 is an employee, manager, director, or officer of a groundwater
4-13 producer that is or may be regulated by the district.

4-14 Sec. 8807.058. COMPENSATION; REIMBURSEMENT. (a) A
4-15 director is not entitled to receive compensation for serving as a
4-16 director.

4-17 (b) A director may receive reimbursement for actual,
4-18 reasonable expenses incurred in the discharge of official duties.

4-19 Sec. 8807.059. VOTING REQUIREMENT. A majority vote of a
4-20 quorum is required for board action.

4-21 [Sections 8807.060-8807.100 reserved for expansion]

4-22 SUBCHAPTER C. POWERS AND DUTIES

4-23 Sec. 8807.101. PRODUCTION FEES. (a) The district may
4-24 assess reasonable fees on each well in the district. The fee:

4-25 (1) must be based on the amount of water withdrawn from
4-26 the well; and

4-27 (2) may not exceed 5 cents per 1,000 gallons of
4-28 groundwater withdrawn for any purpose.

4-29 (b) This section does not apply to:

4-30 (1) a well used exclusively for agriculture, as
4-31 defined by Section 36.001, Water Code; or

4-32 (2) an exempt well under Section 8807.102.

4-33 Sec. 8807.102. WELLS EXEMPT FROM REGULATION. (a) The
4-34 district may not require a permit for a well that is:

4-35 (1) used solely for domestic and livestock purposes;
4-36 and

4-37 (2) incapable of producing more than 25,000 gallons of
4-38 groundwater a day.

4-39 (b) The district may not assess fees on a well that meets the
4-40 criteria established under Section 36.117(b), Water Code.

4-41 Sec. 8807.103. TAXES PROHIBITED. The district may not
4-42 impose a tax.

4-43 Sec. 8807.104. LIMIT ON ISSUANCE OF BONDS. The district may
4-44 not issue any bonds or other obligations that pledge revenue
4-45 derived from district taxation.

4-46 Sec. 8807.105. EMINENT DOMAIN. The district may not
4-47 exercise the power of eminent domain.

4-48 Sec. 8807.106. LIMIT ON PURCHASE OF GROUNDWATER RIGHTS FOR
4-49 CONSERVATION PURPOSES. The district may purchase groundwater
4-50 rights only if the purchased rights are acquired for conservation
4-51 purposes and are held in trust permanently.

4-52 SECTION 2. (a) The legal notice of the intention to
4-53 introduce this Act, setting forth the general substance of this
4-54 Act, has been published as provided by law, and the notice and a
4-55 copy of this Act have been furnished to all persons, agencies,
4-56 officials, or entities to which they are required to be furnished
4-57 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4-58 Government Code.

4-59 (b) The governor has submitted the notice and Act to the
4-60 Texas Commission on Environmental Quality.

4-61 (c) The Texas Commission on Environmental Quality has filed
4-62 its recommendations relating to this Act with the governor,
4-63 lieutenant governor, and speaker of the house of representatives
4-64 within the required time.

4-65 (d) All requirements of the constitution and laws of this
4-66 state and the rules and procedures of the legislature with respect
4-67 to the notice, introduction, and passage of this Act are fulfilled
4-68 and accomplished.

4-69 SECTION 3. This Act takes effect immediately if it receives

5-1 a vote of two-thirds of all the members elected to each house, as
5-2 provided by Section 39, Article III, Texas Constitution. If this
5-3 Act does not receive the vote necessary for immediate effect, this
5-4 Act takes effect September 1, 2005.

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