

1-1 By: Zaffirini S.B. No. 1847
1-2 (In the Senate - Filed April 7, 2005; April 11, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 22, 2005, reported favorably by the following vote: Yeas 11,
1-5 Nays 0; April 22, 2005, sent to printer.)

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

1-8 relating to the creation, administration, powers, duties,
1-9 operation, and financing of the Duval County Groundwater
1-10 Conservation District.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle H, Title 6, Special District Local Laws
1-13 Code, is amended by adding Chapter 8808 to read as follows:

1-14 CHAPTER 8808. DUVAL COUNTY GROUNDWATER CONSERVATION DISTRICT

1-15 SUBCHAPTER A. GENERAL PROVISIONS

1-16 Sec. 8808.001. 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 Duval County Groundwater
1-21 Conservation District.

1-22 Sec. 8808.002. NATURE OF DISTRICT. The district is a
1-23 groundwater conservation district in Duval County created under and
1-24 essential to accomplish the purposes of Section 59, Article XVI,
1-25 Texas Constitution.

1-26 Sec. 8808.003. CONFIRMATION ELECTION REQUIRED. If the
1-27 creation of the district is not confirmed at a confirmation
1-28 election held 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 Duval County; and

1-34 (C) the organization of the district shall be
1-35 maintained until all debts are paid and remaining assets are
1-36 transferred; and

1-37 (2) this chapter expires on September 1, 2010.

1-38 Sec. 8808.004. INITIAL DISTRICT TERRITORY. The initial
1-39 boundaries of the district are coextensive with the boundaries of
1-40 Duval County, Texas.

1-41 Sec. 8808.005. APPLICABILITY OF OTHER GROUNDWATER
1-42 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
1-43 chapter, Chapter 36, Water Code, applies to the district.

1-44 [Sections 8808.006-8808.020 reserved for expansion]

1-45 SUBCHAPTER A-1. TEMPORARY PROVISIONS

1-46 Sec. 8808.021. APPOINTMENT OF TEMPORARY DIRECTORS.

1-47 (a) Not later than the 45th day after the effective date of this
1-48 chapter, five temporary directors shall be appointed as follows:

1-49 (1) the Duval County Commissioners Court shall appoint
1-50 four temporary directors, with one of the temporary directors
1-51 appointed from each of the four commissioners precincts in the
1-52 county to represent the precinct in which the temporary director
1-53 resides; and

1-54 (2) the county judge of Duval County shall appoint one
1-55 temporary director who resides in the district to represent the
1-56 district at large.

1-57 (b) If there is a vacancy on the temporary board of
1-58 directors of the district, the remaining temporary directors shall
1-59 appoint a person to fill the vacancy in a manner that meets the
1-60 representational requirements of this section.

1-61 (c) Temporary directors serve until the earlier of:

1-62 (1) the time the temporary directors become initial
1-63 directors as provided by Section 8808.024; or

1-64 (2) the date this chapter expires under Section

2-1 8808.003.

2-2 Sec. 8808.022. ORGANIZATIONAL MEETING OF TEMPORARY
 2-3 DIRECTORS. As soon as practicable after all the temporary
 2-4 directors have qualified under Section 36.055, Water Code, a
 2-5 majority of the temporary directors shall convene the
 2-6 organizational meeting of the district at a location within the
 2-7 district agreeable to a majority of the directors. If an agreement
 2-8 on location cannot be reached, the organizational meeting shall be
 2-9 at the Duval County Courthouse.

2-10 Sec. 8808.023. CONFIRMATION ELECTION. (a) The temporary
 2-11 directors shall hold an election to confirm the creation of the
 2-12 district.

2-13 (b) Section 41.001(a), Election Code, does not apply to a
 2-14 confirmation election held as provided by this section.

2-15 (c) Except as provided by this section, a confirmation
 2-16 election must be conducted as provided by Sections 36.017(b)-(i),
 2-17 Water Code, and the Election Code. The provision of Section
 2-18 36.017(d), Water Code, relating to the election of permanent
 2-19 directors does not apply to a confirmation election under this
 2-20 section.

2-21 Sec. 8808.024. INITIAL DIRECTORS. (a) If creation of the
 2-22 district is confirmed at an election held under Section 8808.023,
 2-23 the temporary directors of the district become the initial
 2-24 directors of the district and serve on the board of directors until
 2-25 permanent directors are elected under Section 8808.025.

2-26 (b) The initial directors for county precincts 2 and 3 serve
 2-27 a term expiring June 1 following the first regularly scheduled
 2-28 election of directors under Section 8808.025, and the initial
 2-29 directors for county precincts 1 and 4 serve a term expiring June 1
 2-30 following the second regularly scheduled election of directors.
 2-31 The at-large director shall serve a term expiring June 1 following
 2-32 the second regularly scheduled election of directors.

2-33 Sec. 8808.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
 2-34 the uniform election date prescribed by Section 41.001, Election
 2-35 Code, in May of the first even-numbered year after the year in which
 2-36 the district is authorized to be created at a confirmation
 2-37 election, an election shall be held in the district for the election
 2-38 of two directors to replace the initial directors who, under
 2-39 Section 8808.024(b), serve a term expiring June 1 following that
 2-40 election.

2-41 Sec. 8808.026. EXPIRATION OF SUBCHAPTER. This subchapter
 2-42 expires September 1, 2010.

2-43 [Sections 8808.027-8808.050 reserved for expansion]

2-44 SUBCHAPTER B. BOARD OF DIRECTORS

2-45 Sec. 8808.051. DIRECTORS; TERMS. (a) The district is
 2-46 governed by a board of five directors.

2-47 (b) Directors serve staggered four-year terms, with two or
 2-48 three directors' terms expiring June 1 of each even-numbered year.

2-49 (c) A director may serve consecutive terms.

2-50 Sec. 8808.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
 2-51 PRECINCTS. (a) The directors of the district shall be elected
 2-52 according to the commissioners precinct method as provided by this
 2-53 section.

2-54 (b) One director shall be elected by the voters of the
 2-55 entire district, and one director shall be elected from each county
 2-56 commissioners precinct by the voters of that precinct.

2-57 (c) Except as provided by Subsection (e), to be eligible to
 2-58 be a candidate for or to serve as director at large, a person must be
 2-59 a registered voter in the district. To be a candidate for or to
 2-60 serve as director from a county commissioners precinct, a person
 2-61 must be a registered voter of that precinct.

2-62 (d) A person shall indicate on the application for a place
 2-63 on the ballot:

2-64 (1) the precinct that the person seeks to represent;
 2-65 or

2-66 (2) that the person seeks to represent the district at
 2-67 large.

2-68 (e) When the boundaries of the county commissioners
 2-69 precincts are redrawn after each federal decennial census to

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

3-8 Sec. 8808.053. ELECTION DATE. The district shall hold an
3-9 election to elect the appropriate number of directors on the
3-10 uniform election date prescribed by Section 41.001, Election Code,
3-11 in May of each even-numbered year.

3-12 Sec. 8808.054. COMPENSATION. (a) Sections 36.060(a),
3-13 (b), and (d), Water Code, do not apply to the district.

3-14 (b) A director is entitled to receive compensation of not
3-15 more than \$50 a day for each day the director actually spends
3-16 performing the duties of a director. The compensation may not
3-17 exceed \$3,000 a year.

3-18 (c) The board may authorize a director to receive
3-19 reimbursement for the director's reasonable expenses incurred
3-20 while engaging in activities on behalf of the board.

3-21 [Sections 8808.055-8808.100 reserved for expansion]

3-22 SUBCHAPTER C. POWERS AND DUTIES

3-23 Sec. 8808.101. COURT-APPOINTED RECEIVER. The district may
3-24 serve as the court-appointed receiver in a matter determined by a
3-25 court concerning the disposition of assets of any other district
3-26 authorized by Section 52(b)(1) or (2), Article III, or Section 59,
3-27 Article XVI, Texas Constitution, including a municipal utility
3-28 district or a water control and improvement district in Duval
3-29 County.

3-30 Sec. 8808.102. POWER TO CONTRACT WITH MUNICIPAL UTILITY
3-31 DISTRICTS. The district may enter into a contract with a municipal
3-32 utility district in Duval County to assume the functions of the
3-33 municipal utility district. A contract under this section may
3-34 include provisions for the district's:

3-35 (1) assumption of the debts, liabilities, and
3-36 obligations of the municipal utility district;

3-37 (2) ownership or use of the assets and facilities of
3-38 the municipal utility district; and

3-39 (3) performance of the functions and services
3-40 previously provided by the municipal utility district.

3-41 Sec. 8808.103. RELATION TO OTHER WATER-RELATED ENTITIES.
3-42 (a) To the extent that a rule of the district conflicts with a rule
3-43 of a water control and improvement district, the rule of the water
3-44 control and improvement district controls.

3-45 (b) To the extent that a rule of the district conflicts with
3-46 a rule of a municipal utility district, the rule of the municipal
3-47 utility district controls.

3-48 (c) Notwithstanding Subsections (a) and (b), to the extent
3-49 that a rule of the district concerning groundwater conflicts with a
3-50 rule of a water control and improvement district or a municipal
3-51 utility district whose territory is located wholly or partly in the
3-52 district's territory, the rule of the district controls.

3-53 [Sections 8808.104-8808.150 reserved for expansion]

3-54 SUBCHAPTER D. MERGER WITH WATER CONTROL AND IMPROVEMENT DISTRICT

3-55 Sec. 8808.151. DEFINITIONS. In this subchapter:

3-56 (1) "Commission" means the Texas Commission on
3-57 Environmental Quality.

3-58 (2) "Directors" means the board of directors of a
3-59 water control and improvement district.

3-60 Sec. 8808.152. AUTHORITY FOR AGREEMENT FOR MERGER;
3-61 PROVISIONS. (a) Subject to Sections 8808.153, 8808.154, and
3-62 8808.155, the district may enter into a merger agreement with a
3-63 water control and improvement district in Duval County.

3-64 (b) The merger agreement must include provisions for:

3-65 (1) the district's assumption of the debts,
3-66 liabilities, and obligations of the water control and improvement
3-67 district;

3-68 (2) the district's assumption of the ownership of the
3-69 assets and facilities of the water control and improvement

4-1 district;
 4-2 (3) the assignment to the district of the certificate
 4-3 of public convenience and necessity obtained by the water control
 4-4 and improvement district under Subchapter G, Chapter 13, Water
 4-5 Code, and any right obtained under the certificate;
 4-6 (4) the district's performance of the functions and
 4-7 services previously provided by the water control and improvement
 4-8 district; and
 4-9 (5) the dissolution of the water control and
 4-10 improvement district.

4-11 Sec. 8808.153. BOARD AND DIRECTORS APPROVAL OF MERGER
 4-12 AGREEMENT. Before an election to confirm a proposed merger
 4-13 agreement described by Section 8808.152 may be held, the board and
 4-14 the directors must each approve the proposed merger agreement in
 4-15 accordance with the laws, rules, and procedures applicable to the
 4-16 district and the water control and improvement district.

4-17 Sec. 8808.154. COMMISSION DETERMINATION OF DISTRICT
 4-18 CAPABILITY FOR SERVICE. Before an election to confirm a proposed
 4-19 merger agreement described by Section 8808.152 may be held, the
 4-20 commission must determine that the district is capable of rendering
 4-21 adequate and continuous service as required by Section 13.251,
 4-22 Water Code.

4-23 Sec. 8808.155. ELECTION TO CONFIRM MERGER AGREEMENT.
 4-24 (a) Before a proposed merger agreement described by Section
 4-25 8808.152 may take effect, the board shall hold an election to
 4-26 confirm the agreement.

4-27 (b) The election must be held on the first authorized
 4-28 uniform election date after the board and the directors approve the
 4-29 proposed merger agreement that allows sufficient time for the board
 4-30 to comply with all applicable provisions of the Election Code.

4-31 Sec. 8808.156. BALLOTS FOR ELECTION. The ballot for an
 4-32 election under Section 8808.155 shall read as follows:

4-33 "By voting YES on this ballot, you are voting in favor of the
 4-34 proposed merger agreement between the (name of water control and
 4-35 improvement district) and the Duval County Groundwater
 4-36 Conservation District under which the debts, liabilities,
 4-37 obligations, assets, and facilities of (name of water control and
 4-38 improvement district) are to be transferred to the district, the
 4-39 district is to perform the functions and services previously
 4-40 provided by the (name of water control and improvement district),
 4-41 and the (name of water control and improvement district) is to be
 4-42 dissolved. By voting NO on this ballot, you are voting against the
 4-43 proposed merger agreement."

4-44 Sec. 8808.157. ELECTION RESULTS FOR MERGER WITH WATER
 4-45 CONTROL AND IMPROVEMENT DISTRICT. (a) If a majority of the voters
 4-46 voting in an election under Section 8808.155 both in the area of the
 4-47 water control and improvement district and in the territory of the
 4-48 district outside that area vote in favor of the ballot proposition,
 4-49 the proposed merger agreement takes effect.

4-50 (b) If a majority of the voters voting in an election under
 4-51 Section 8808.155 either in the area of the water control and
 4-52 improvement district or in the territory of the district outside
 4-53 that area do not vote in favor of the ballot proposition:

4-54 (1) the proposed merger agreement does not take
 4-55 effect; and

4-56 (2) the board may not hold a subsequent election to
 4-57 confirm a proposed merger agreement between the same water control
 4-58 and improvement district and the district before the first
 4-59 anniversary of the election date.

4-60 Sec. 8808.158. FILING REQUIREMENT. If a proposed merger
 4-61 agreement is confirmed at an election under Section 8808.155, not
 4-62 later than the 15th day after the date of the election the board
 4-63 shall file with the commission and in the deed records of Duval
 4-64 County a copy of:

4-65 (1) the merger agreement;

4-66 (2) the resolutions or other actions taken by the
 4-67 board and the directors approving the merger agreement under
 4-68 Section 8808.153; and

4-69 (3) the election results.

5-1 SECTION 2. (a) The legal notice of the intention to
5-2 introduce this Act, setting forth the general substance of this
5-3 Act, has been published as provided by law, and the notice and a
5-4 copy of this Act have been furnished to all persons, agencies,
5-5 officials, or entities to which they are required to be furnished
5-6 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-7 Government Code.

5-8 (b) The governor has submitted the notice and Act to the
5-9 Texas Commission on Environmental Quality.

5-10 (c) The Texas Commission on Environmental Quality has filed
5-11 its recommendations relating to this Act with the governor,
5-12 lieutenant governor, and speaker of the house of representatives
5-13 within the required time.

5-14 (d) All requirements of the constitution and laws of this
5-15 state and the rules and procedures of the legislature with respect
5-16 to the notice, introduction, and passage of this Act are fulfilled
5-17 and accomplished.

5-18 SECTION 3. This Act takes effect immediately if it receives
5-19 a vote of two-thirds of all the members elected to each house, as
5-20 provided by Section 39, Article III, Texas Constitution. If this
5-21 Act does not receive the vote necessary for immediate effect, this
5-22 Act takes effect September 1, 2005.

5-23

* * * * *