

1-1 By: Zaffirini S.B. No. 1848
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 Starr County Groundwater
1-10 Conservation District.

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

1-12 SECTION 1. DEFINITIONS. In this Act:

1-13 (1) "Board" means the board of directors of the
1-14 district.

1-15 (2) "District" means the Starr County Groundwater
1-16 Conservation District.

1-17 SECTION 2. CREATION. A groundwater conservation district,
1-18 to be known as the Starr County Groundwater Conservation District,
1-19 is created in Starr County, subject to approval at a confirmation
1-20 election under Section 7 of this Act.

1-21 SECTION 3. FINDINGS OF BENEFIT. (a) The district is
1-22 created to serve a public use and benefit.

1-23 (b) The district is created under and is essential to
1-24 accomplish the purposes of Section 59, Article XVI, Texas
1-25 Constitution.

1-26 (c) All of the land and other property included within the
1-27 boundaries of the district will be benefited by the works and
1-28 projects that are to be accomplished by the district under powers
1-29 conferred by Section 59, Article XVI, Texas Constitution.

1-30 SECTION 4. CONTINUING PROVISIONS OF DISTRICT. Subtitle H,
1-31 Title 6, Special District Local Laws Code, is amended by adding
1-32 Chapter 8803 to read as follows:

1-33 CHAPTER 8803. STARR COUNTY GROUNDWATER CONSERVATION DISTRICT

1-34 SUBCHAPTER A. GENERAL PROVISIONS

1-35 Sec. 8803.001. DEFINITIONS. In this chapter:

1-36 (1) "Board" means the board of directors of the
1-37 district.

1-38 (2) "District" means the Starr County Groundwater
1-39 Conservation District.

1-40 (3) "Municipally owned utility" has the meaning
1-41 assigned by Section 13.002, Water Code.

1-42 (4) "Regional water authority" means the Rio Grande
1-43 Regional Water Authority.

1-44 (5) "Water supply or sewer service corporation" has
1-45 the meaning assigned by Section 13.002, Water Code.

1-46 Sec. 8803.002. NATURE OF DISTRICT. The district is:

1-47 (1) a conservation and reclamation district in Starr
1-48 County created under Section 59, Article XVI, Texas Constitution;
1-49 and

1-50 (2) a groundwater conservation district.

1-51 Sec. 8803.003. DISTRICT BOUNDARIES. The boundaries of the
1-52 district are coextensive with the boundaries of Starr County.

1-53 [Sections 8803.004-8803.050 reserved for expansion]

1-54 SUBCHAPTER B. BOARD OF DIRECTORS

1-55 Sec. 8803.051. BOARD. The board consists of five
1-56 directors.

1-57 Sec. 8803.052. TERMS. Directors serve staggered four-year
1-58 terms.

1-59 Sec. 8803.053. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
1-60 PRECINCTS. (a) The directors of the district shall be elected
1-61 according to the commissioners precinct method as provided by this
1-62 section.

1-63 (b) One director shall be elected by the voters of the
1-64 entire district, and one director shall be elected from each county

commissioners precinct by the voters of that precinct.

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

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

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

or

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

(e) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

Sec. 8803.054. ELECTION DATE FOR DIRECTORS. The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in May of each even-numbered year.

[Sections 8803.055-8803.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8803.101. GENERAL POWERS AND DUTIES. The district has all the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8803.102. COURT-APPOINTED RECEIVER. The district may serve as the court-appointed receiver in a matter determined by a court concerning the disposition of assets of any other district authorized by Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a municipally owned utility, or a water supply or sewer service corporation.

Sec. 8803.103. POWER TO CONTRACT WITH MUNICIPALITIES. The district may enter into a contract with a municipality to assume the functions of the municipality's municipally owned utility. A contract under this section may include provisions for the district's:

(1) assumption of the debts, liabilities, and obligations of the municipally owned utility;

(2) ownership or use of the assets and facilities of the municipally owned utility; and

(3) performance of the functions and services previously provided by the municipally owned utility.

Sec. 8803.104. RELATION TO OTHER WATER-RELATED ENTITIES.

(a) To the extent that a rule of the district conflicts with a rule of the regional water authority, the rule of the authority controls.

(b) To the extent that a rule of the district conflicts with an action of a municipally owned utility or water supply or sewer service corporation whose certificated area is located wholly or partly in the district's territory, the action of the utility or corporation controls.

(c) Notwithstanding Subsections (a) and (b), to the extent that a rule of the district concerning groundwater conflicts with a rule of the regional water authority or with an action of a municipally owned utility or water supply or sewer service corporation whose certificated area is located wholly or partly in the district's territory, the rule of the district controls.

[Sections 8803.105-8803.150 reserved for expansion]

SUBCHAPTER D. MERGER WITH WATER SUPPLY OR SEWER SERVICE CORPORATION

Sec. 8803.151. DEFINITIONS. In this subchapter:

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

3-1 (2) "Directors" means the board of directors of a
3-2 water supply or sewer service corporation.

3-3 Sec. 8803.152. AUTHORITY FOR AGREEMENT FOR MERGER;
3-4 PROVISIONS. (a) Subject to Sections 8803.153, 8803.154, and
3-5 8803.155, the district may enter into a merger agreement with a
3-6 water supply or sewer service corporation.

3-7 (b) The merger agreement must include provisions for:

3-8 (1) the district's assumption of the debts,
3-9 liabilities, and obligations of the water supply or sewer service
3-10 corporation;

3-11 (2) the district's assumption of the ownership of the
3-12 corporation's assets and facilities;

3-13 (3) the assignment to the district of the certificate
3-14 of public convenience and necessity obtained by the corporation
3-15 under Subchapter G, Chapter 13, Water Code, and any right obtained
3-16 under the certificate;

3-17 (4) the district's performance of the functions and
3-18 services previously provided by the corporation; and

3-19 (5) the dissolution of the corporation.

3-20 Sec. 8803.153. BOARD, DIRECTORS, AND MEMBERS APPROVAL OF
3-21 MERGER AGREEMENT. Before an election to confirm a proposed merger
3-22 agreement described by Section 8803.152 may be held, the board, the
3-23 directors, and, if the water supply or sewer service corporation
3-24 has members with voting rights, the members of the corporation must
3-25 each approve the proposed merger agreement in accordance with the
3-26 laws, rules, charter, bylaws, and procedures applicable to the
3-27 district and the corporation.

3-28 Sec. 8803.154. COMMISSION DETERMINATION OF DISTRICT
3-29 CAPABILITY FOR SERVICE. Before an election to confirm a proposed
3-30 merger agreement described by Section 8803.152 may be held, the
3-31 commission must determine that the district is capable of rendering
3-32 adequate and continuous service as required by Section 13.251,
3-33 Water Code.

3-34 Sec. 8803.155. ELECTION TO CONFIRM MERGER AGREEMENT.

3-35 (a) Before a proposed merger agreement described by Section
3-36 8803.152 may take effect, the board shall hold an election to
3-37 confirm the agreement.

3-38 (b) The election must be held on the first authorized
3-39 uniform election date after the board, the directors, and, if
3-40 required, the members of the water supply or sewer service
3-41 corporation approve the proposed merger agreement that allows
3-42 sufficient time for the board to comply with all applicable
3-43 provisions of the Election Code.

3-44 Sec. 8803.156. BALLOTS FOR ELECTION. The ballot for an
3-45 election under Section 8803.155 shall read as follows:

3-46 "By voting YES on this ballot, you are voting in favor of the
3-47 proposed merger agreement between the (name of water supply or
3-48 sewer service corporation) and the Starr County Groundwater
3-49 Conservation District under which the corporation's debts,
3-50 liabilities, obligations, assets, and facilities are to be
3-51 transferred to the district, the district is to perform the
3-52 functions and services previously provided by the corporation, and
3-53 the corporation is to be dissolved. By voting NO on this ballot,
3-54 you are voting against the proposed merger agreement."

3-55 Sec. 8803.157. ELECTION RESULTS FOR MERGER WITH WATER
3-56 SUPPLY OR SEWER SERVICE CORPORATION. (a) If a majority of the
3-57 voters voting in an election under Section 8803.155 both in the
3-58 certificated area of the water supply or sewer service corporation
3-59 and in the territory of the district outside the certificated area
3-60 vote in favor of the ballot proposition, the proposed merger
3-61 agreement takes effect.

3-62 (b) If a majority of the voters voting in an election under
3-63 Section 8803.155 either in the certificated area of the water
3-64 supply or sewer service corporation or in the territory of the
3-65 district outside the certificated area do not vote in favor of the
3-66 ballot proposition:

3-67 (1) the proposed merger agreement does not take
3-68 effect; and

3-69 (2) the board may not hold a subsequent election to

4-1 confirm a proposed merger agreement between the same water supply
4-2 or sewer service corporation and the district before the first
4-3 anniversary of the election date.

4-4 Sec. 8803.158. FILING REQUIREMENT. If a proposed merger
4-5 agreement is confirmed at an election under Section 8803.155, not
4-6 later than the 15th day after the date of the election the board
4-7 shall file with the commission and in the deed records of Starr
4-8 County a copy of:

- 4-9 (1) the merger agreement;
- 4-10 (2) the resolutions or other actions taken by the
- 4-11 board, the directors, and, if required, the members of the water
- 4-12 supply or sewer service corporation approving the merger agreement
- 4-13 under Section 8803.153; and
- 4-14 (3) the election results.

4-15 SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not
4-16 later than the 45th day after the effective date of this Act:

4-17 (1) the Starr County Commissioners Court shall appoint
4-18 one temporary director from each of the four commissioners
4-19 precincts in the county to represent the precinct in which the
4-20 temporary director resides; and

4-21 (2) the county judge of Starr County shall appoint one
4-22 temporary director who resides in the district to represent the
4-23 district at large.

4-24 (b) If there is a vacancy on the temporary board of
4-25 directors of the district, the remaining temporary directors shall
4-26 appoint a person to fill the vacancy in a manner that meets the
4-27 representational requirements of this section.

4-28 (c) Temporary directors serve until temporary directors
4-29 become initial directors as provided by Section 8 of this Act or
4-30 this Act expires under Section 11, whichever occurs earlier.

4-31 SECTION 6. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS.
4-32 As soon as practicable after all the temporary directors have
4-33 qualified under Section 36.055, Water Code, a majority of the
4-34 temporary directors shall convene the organizational meeting of the
4-35 district at a location within the district agreeable to a majority
4-36 of the directors. If no location can be agreed upon, the
4-37 organizational meeting shall be at the Starr County Courthouse.

4-38 SECTION 7. CONFIRMATION ELECTION. (a) The temporary
4-39 directors shall hold an election to confirm the creation of the
4-40 district.

4-41 (b) Subsection (a), Section 41.001, Election Code, does not
4-42 apply to a confirmation election held as provided by this section.

4-43 (c) Except as provided by this section, a confirmation
4-44 election must be conducted as provided by Subsections (b) through
4-45 (i), Section 36.017, Water Code, and the Election Code.

4-46 (d) If the establishment of the district is not confirmed at
4-47 an election held under this section before September 1, 2007, the
4-48 district is dissolved, except that:

- 4-49 (1) any debts incurred shall be paid;
- 4-50 (2) any assets that remain after the payment of debts
- 4-51 shall be transferred to Starr County; and
- 4-52 (3) the organization of the district shall be
- 4-53 maintained until all debts are paid and remaining assets are
- 4-54 transferred.

4-55 SECTION 8. INITIAL DIRECTORS. If creation of the district
4-56 is confirmed at an election held under Section 7 of this Act, the
4-57 temporary directors of the district become the initial directors of
4-58 the district and serve on the board of directors until permanent
4-59 directors are elected under Section 9 of this Act.

4-60 SECTION 9. ELECTION OF PERMANENT DIRECTORS. (a) The
4-61 initial directors for county precincts 2 and 3 serve until the first
4-62 regularly scheduled election of directors under Subsection (b) of
4-63 this section, and the initial directors for county precincts 1 and 4
4-64 and the initial director representing the district at large serve
4-65 until the second regularly scheduled election of directors.

4-66 (b) On the uniform election date prescribed by Section
4-67 41.001, Election Code, in May of the first even-numbered year after
4-68 the year in which the district is authorized to be created at a
4-69 confirmation election, an election shall be held in the district

5-1 for the election of two directors to replace the initial directors
5-2 for county precincts 2 and 3.

5-3 SECTION 10. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

5-4 (a) The legal notice of the intention to introduce this Act,
5-5 setting forth the general substance of this Act, has been published
5-6 as provided by law, and the notice and a copy of this Act have been
5-7 furnished to all persons, agencies, officials, or entities to which
5-8 they are required to be furnished under Section 59, Article XVI,
5-9 Texas Constitution, and Chapter 313, Government Code.

5-10 (b) The governor has submitted the notice and Act to the
5-11 Texas Commission on Environmental Quality.

5-12 (c) The Texas Commission on Environmental Quality has filed
5-13 its recommendations relating to this Act with the governor,
5-14 lieutenant governor, and speaker of the house of representatives
5-15 within the required time.

5-16 (d) All requirements of the constitution and laws of this
5-17 state and the rules and procedures of the legislature with respect
5-18 to the notice, introduction, and passage of this Act are fulfilled
5-19 and accomplished.

5-20 SECTION 11. CONTINGENT EXPIRATION DATE; DEBTS. (a) If the
5-21 creation of the district is not confirmed at a confirmation
5-22 election held under Section 7 of this Act before September 1, 2007,
5-23 this Act expires on that date.

5-24 (b) The expiration of this Act does not affect the liability
5-25 of the district to pay any debt incurred or the transfer of any
5-26 assets remaining to Starr County as required by Subsection (d),
5-27 Section 7 of this Act.

5-28 SECTION 12. EFFECTIVE DATE. This Act takes effect
5-29 immediately if it receives a vote of two-thirds of all the members
5-30 elected to each house, as provided by Section 39, Article III, Texas
5-31 Constitution. If this Act does not receive the vote necessary for
5-32 immediate effect, this Act takes effect September 1, 2005.

5-33 * * * * *