

By: Madla

S.B. No. 1896

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation, administration, powers, duties,
3 operation, and financing of the Val Verde County Groundwater
4 Conservation District.

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

6 SECTION 1. DEFINITIONS. In this Act:

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

9 (2) "District" means the Val Verde County Groundwater
10 Conservation District.

11 SECTION 2. CREATION. A groundwater conservation district,
12 to be known as the Val Verde County Groundwater Conservation
13 District, is created in Val Verde County, subject to approval at a
14 confirmation election under Section 7 of this Act.

15 SECTION 3. FINDINGS OF BENEFIT. (a) The district is
16 created to serve a public use and benefit.

17 (b) The district is created under and is essential to
18 accomplish the purposes of Section 59, Article XVI, Texas
19 Constitution.

20 (c) All of the land and other property included within the
21 boundaries of the district will be benefited by the works and
22 projects that are to be accomplished by the district under powers
23 conferred by Section 59, Article XVI, Texas Constitution.

24 SECTION 4. CONTINUING PROVISIONS OF DISTRICT. Subtitle H,

1 Title 6, Special District Local Laws Code, is amended by adding
2 Chapter 8804 to read as follows:

3 CHAPTER 8804. VAL VERDE COUNTY GROUNDWATER

4 CONSERVATION DISTRICT

5 SUBCHAPTER A. GENERAL PROVISIONS

6 Sec. 8804.001. DEFINITIONS. In this chapter:

7 (1) "Agricultural use" means any use or activity
8 involving agriculture, including irrigation.

9 (2) "Agriculture" means any of the following
10 activities:

11 (A) cultivating the soil to produce crops for
12 human food, animal feed, or planting seed or for the production of
13 fibers;

14 (B) the practice of floriculture, viticulture,
15 silviculture, and horticulture, including the cultivation of
16 plants in containers of nonsoil media, by a nursery grower;

17 (C) raising, feeding, or keeping animals, other
18 than fish, for breeding purposes or for the production of food or
19 fiber, leather, pelts, or other tangible products having a
20 commercial value;

21 (D) planting cover crops, including cover crops
22 cultivated for transplantation, or leaving land idle for the
23 purpose of participating in any governmental program or normal crop
24 or livestock rotation procedure;

25 (E) wildlife management; and

26 (F) raising or keeping equine animals.

27 (3) "Board" means the board of directors of the

1 district.

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

3 (5) "District" means the Val Verde County Groundwater
4 Conservation District.

5 (6) "Domestic use" means use in the district of water
6 by a person owning the well from which the water is withdrawn and by
7 that person's household for:

8 (A) drinking, washing, or culinary purposes;

9 (B) irrigation of lawns;

10 (C) irrigation of a family garden or orchard the
11 produce of which is for household consumption only;

12 (D) swimming pools, decorative ponds, or
13 fountains on the person's property; and

14 (E) watering of domestic animals not raised,
15 maintained, or sold for commercial purposes.

16 (7) "Political subdivision" means a county,
17 municipality, or other body politic or corporate of the state,
18 including a district or authority created under Section 52, Article
19 III, or Section 59, Article XVI, Texas Constitution, a state
20 agency, or a nonprofit water supply corporation created under
21 Chapter 67, Water Code.

22 Sec. 8804.002. NATURE OF DISTRICT. The district is a
23 groundwater conservation district in Val Verde County created under
24 Section 59, Article XVI, Texas Constitution.

25 Sec. 8804.003. DISTRICT PURPOSE. The district is created
26 to:

27 (1) provide for the protection, recharging, and

1 prevention of waste of groundwater in the Val Verde County area;

2 (2) control subsidence caused by the withdrawal of
3 water from the groundwater reservoirs in the Val Verde County area;

4 (3) regulate the transport of groundwater out of the
5 boundaries of the district;

6 (4) maintain at least the minimum spring flow of San
7 Felipe Springs based on the 1996 San Felipe Springs flow; and

8 (5) manage the issuance of permits for the transfer of
9 groundwater by:

10 (A) requiring groundwater availability models of
11 permit applicants; and

12 (B) using sustainable yield calculations to
13 manage withdrawal of groundwater to protect the aquifer and springs
14 in the district.

15 [Sections 8804.004-8804.050 reserved for expansion]

16 SUBCHAPTER B. TERRITORY

17 Sec. 8804.051. BOUNDARIES. The boundaries of the district
18 are coextensive with the boundaries of Val Verde County, Texas.

19 [Sections 8804.052-8804.100 reserved for expansion]

20 SUBCHAPTER C. BOARD OF DIRECTORS

21 Sec. 8804.101. BOARD. The board consists of seven
22 directors.

23 Sec. 8804.102. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
24 PRECINCTS. (a) The directors of the district shall be elected
25 according to the commissioners precinct method as provided by this
26 section.

27 (b) Three directors shall be elected by the voters of the

1 entire district, and one director shall be elected from each county
2 commissioners precinct by the voters of that precinct.

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

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

10 (1) the precinct that the person seeks to represent;
11 or

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

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

23 Sec. 8804.103. ELECTION DATE. The district shall hold an
24 election to elect the appropriate number of directors on the
25 uniform election date prescribed by Section 41.001, Election Code,
26 in November of each even-numbered year.

27 Sec. 8804.104. TERMS. (a) Directors serve staggered

1 four-year terms.

2 (b) A director may serve for consecutive terms.

3 Sec. 8804.105. COMPENSATION. (a) A director is not
4 entitled to receive fees of office for performing the duties of a
5 director.

6 (b) The board may authorize a director to receive
7 reimbursement for the director's reasonable expenses incurred
8 while engaging in activities outside the district on behalf of the
9 board.

10 [Sections 8804.106-8804.150 reserved for expansion]

11 SUBCHAPTER D. POWERS AND DUTIES

12 Sec. 8804.151. POWERS AND DUTIES. Except as otherwise
13 provided by this chapter, the district has all of the rights,
14 powers, privileges, authority, functions, and duties provided by
15 the general law of this state, including Chapter 36, Water Code,
16 applicable to groundwater conservation districts created under
17 Section 59, Article XVI, Texas Constitution.

18 Sec. 8804.152. PERMIT TO TRANSFER GROUNDWATER. (a) The
19 district by rule shall:

20 (1) require a person to obtain a permit from the
21 district to transfer groundwater out of the district; and

22 (2) regulate the terms of a transfer of groundwater
23 out of the district.

24 (b) The district shall develop rules under this section
25 that:

26 (1) are consistent with the requirements of Section
27 36.122, Water Code;

1 (2) manage the issuance of permits using a sustainable
2 yield calculation in which the sustainable yield of the aquifer is
3 measured by calculating the average water withdrawal during a
4 calendar year and determining that the average water withdrawal
5 does not exceed the long-term recharge as determined by the Texas
6 Water Development Board under Section 8804.161; and

7 (3) maintain at least the 1996 minimum spring flow of
8 San Felipe Springs and at least the minimum flows of all other
9 springs in the district as determined by the initial groundwater
10 study conducted under Section 8804.161.

11 (c) The district shall use a groundwater availability
12 model, and not historical use, as the basis for issuing permits.

13 (d) A permit issued under this section, except for a permit
14 issued under Section 8804.153(a), does not establish historical
15 use.

16 Sec. 8804.153. PERMITS FOR USE SOLELY INSIDE DISTRICT. (a)
17 The district shall grant the City of Del Rio a permit in the city's
18 name that authorizes the city to pump from all city wells a stated
19 cumulative amount of not less than 15,000 acre-feet of water
20 annually for use solely inside the district. If the study performed
21 under Section 8804.162 finds that sufficient groundwater is
22 available, the district shall amend the city's permit to authorize
23 the city to pump from all city wells a stated cumulative amount of
24 not less than 20,000 acre-feet of water annually for use solely
25 inside the district. This subsection does not limit the City of Del
26 Rio's right to apply for or obtain a permit to transfer groundwater
27 under Section 8804.152.

1 (b) The district shall grant to a nonprofit rural water
2 supply corporation, water district, or other political subdivision
3 a permit that authorizes the water supply corporation, water
4 district, or other political subdivision to pump from its wells
5 annually a volume of water that is not less than the volume equal to
6 twice its greatest water usage in a calendar year before the date
7 the district is confirmed at an election held for that purpose, for
8 use solely inside the district.

9 Sec. 8804.154. AGRICULTURAL USE PERMIT. (a) Except as
10 provided by Section 8804.155, the district shall grant any
11 application for an agricultural use permit for any well that is used
12 solely for agricultural use inside the district. The district
13 shall issue an agricultural use permit in an amount that is not less
14 than five acre-feet of water per acre actually cultivated per year.
15 An agricultural use permit is nontransferable and expires on the
16 date the well ceases to be used solely for agricultural use inside
17 the district.

18 (b) This section does not limit the well owner's right to
19 apply for or obtain a permit to transfer groundwater under Section
20 8804.152.

21 Sec. 8804.155. LIMITATION ON WELL PERMIT REQUIREMENTS. (a)
22 The district may not require a person to obtain a permit from the
23 district for:

24 (1) a well used solely for domestic use or for
25 providing water for livestock or poultry on a tract of land smaller
26 than 10 acres that is either drilled, completed, or equipped so that
27 it is incapable of producing more than 30,000 gallons of

1 groundwater a day;

2 (2) a well used solely for domestic use or for
3 providing water for livestock or poultry on a tract of land 10 acres
4 or larger that is either drilled, completed, or equipped so that it
5 is incapable of producing more than 50,000 gallons of groundwater a
6 day; or

7 (3) any well in use before the date the district is
8 confirmed at an election held for that purpose and used solely for
9 agricultural use.

10 (b) The district shall require a permit for a well described
11 by Subsection (a)(3) that ceases to be used solely for agricultural
12 use. The district also may impose a fee on the well as provided by
13 Section 8804.202(c)(1)(A).

14 (c) An owner of a well described by this section shall
15 register the well with the district.

16 (d) A well owner is entitled to a permit exemption under
17 this section only if water from the well is used solely inside the
18 district. If water from a well is not used solely inside the
19 district, the well owner must obtain a permit.

20 Sec. 8804.156. REPLACEMENT WELL. (a) A new well that
21 replaces an abandoned or decommissioned well is subject to the same
22 permit requirements or exemption as the well it replaces if the
23 replacement well:

24 (1) is used solely for the same purposes as the well it
25 replaces; and

26 (2) serves the same area as the well it replaces.

27 (b) The district may not require a person who repairs or

1 modifies a well to obtain a permit for that well if the well:

2 (1) is exempt under Section 8804.155; and

3 (2) continues to be used solely for agricultural use.

4 Sec. 8804.157. PROHIBITION ON DISTRICT PURCHASE, SALE,
5 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not
6 purchase, sell, transport, or distribute surface water or
7 groundwater for any purpose.

8 Sec. 8804.158. PROHIBITION ON DISTRICT USE OF EMINENT
9 DOMAIN. The district may not exercise the power of eminent domain.

10 Sec. 8804.159. REGIONAL COOPERATION. To provide for
11 regional continuity, the district shall:

12 (1) participate as needed in coordination meetings
13 with other groundwater districts in its designated management area;

14 (2) coordinate the collection of data with other
15 groundwater conservation districts in its designated management
16 area in such a way as to achieve relative uniformity of data type
17 and quality;

18 (3) coordinate efforts to monitor water quality with
19 other groundwater conservation districts in its designated
20 management area, local governments, and state agencies;

21 (4) provide groundwater level data to other
22 groundwater conservation districts in its designated management
23 area;

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

26 (6) notify other groundwater conservation districts
27 in its designated management area and all appropriate agencies of

1 any groundwater pollution detected; and

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

6 Sec. 8804.160. WATER CONSERVATION INITIATIVE. The district
7 may create a water conservation initiative as described by Section
8 11.32, Tax Code.

9 Sec. 8804.161. TEXAS WATER DEVELOPMENT BOARD STUDY. At
10 least once every 10 years and at any other time the board considers
11 necessary to implement Section 8804.152(b)(2), the staff of the
12 Texas Water Development Board shall make a complete study of the
13 groundwater in the district and determine:

14 (1) the water level;

15 (2) the rates and amounts of groundwater withdrawal;

16 (3) the rates and amounts by which the groundwater is
17 recharged;

18 (4) rainwater levels; and

19 (5) other information relating to the sustainable
20 yield of the aquifer under Section 8804.152(b)(2).

21 Sec. 8804.162. LOCAL STUDY OF GROUNDWATER AVAILABILITY.

22 (a) Except as provided by Subsection (b), not later than the 10th
23 anniversary of the date on which the district is confirmed, the
24 district shall complete a study to determine whether there is
25 sufficient groundwater to amend the permit granted under Section
26 8804.153(a) to the City of Del Rio as authorized by Section
27 8804.153(a).

1 (b) In place of the district's study, the City of Del Rio may
2 perform a study of the groundwater availability in the district and
3 the board may rely on the city's study if the city's study meets the
4 criteria of the Texas Water Development Board study required by
5 Section 8804.161.

6 Sec. 8804.163. MORATORIUM ON TRANSFER PERMITS. (a) The
7 district shall impose a moratorium on the issuance of permits for
8 the transfer of groundwater during each period set aside to conduct
9 and consider a groundwater study under Section 8804.161.

10 (b) Except for the initial study, the district by rule shall
11 specify the length of the period set aside to conduct and consider
12 groundwater studies under Section 8804.161.

13 (c) The district may not issue a permit for the transfer of
14 groundwater until:

15 (1) an initial groundwater study under Section
16 8804.161 is completed and submitted to the district;

17 (2) the district determines the amount of groundwater
18 needed to maintain the minimum flow of each spring in the district;
19 and

20 (3) the district establishes by rule the amount of
21 groundwater reserved solely to maintain minimum flows for all
22 springs in the district.

23 [Sections 8804.164-8804.200 reserved for expansion]

24 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

25 Sec. 8804.201. LIMITATION ON TAXES. (a) The district may
26 not levy ad valorem taxes at a rate that exceeds five cents on each
27 \$100 of assessed valuation of taxable property in the district.

1 (b) The district may not levy ad valorem taxes at a rate that
2 exceeds 2-1/2 cents on each \$100 of assessed valuation of taxable
3 property in the district for the first two tax years after the
4 district's confirmation.

5 (c) Not later than the seventh anniversary of the date on
6 which the district is confirmed, the district shall maintain in
7 reserve at all times not less than six months and not more than two
8 years of operating capital. If the district's reserve operating
9 capital at any time exceeds the amount needed to operate the
10 district for two years, the district must:

11 (1) reduce taxes so as not to collect more revenue than
12 is needed to operate the district; or

13 (2) perform a recharge project with the excess
14 revenue.

15 Sec. 8804.202. FEES. (a) The board by rule may impose
16 reasonable fees on each well:

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

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

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

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

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

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

25 (1) may not exceed:

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

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

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

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

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

9 (1) assessed annually or monthly; and

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

11 Sec. 8804.203. EXEMPTION FROM FEES. (a) Except as provided
12 by Subsection (b), the district may not impose a fee on a well
13 drilled by a nonprofit rural water supply corporation, water
14 district, or other political subdivision if the well's production
15 is for use within the district.

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

19 (1) severe drought or another district emergency makes
20 the fee necessary; and

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

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

24 (1) the Val Verde County Commissioners Court shall
25 appoint one temporary director from each of the four commissioners
26 precincts in the county to represent the precinct in which the
27 temporary director resides;

1 (2) the county judge of Val Verde County shall appoint
2 one temporary director who resides in the district to represent the
3 district at large; and

4 (3) the Del Rio City Council shall appoint two
5 temporary directors, each of whom resides in the district, to
6 represent the district at large.

7 (b) Of the temporary directors, at least one director must
8 represent rural water suppliers in the district, one must represent
9 agricultural interests in the district, one must represent
10 industrial interests in the district, and one must represent
11 municipal water suppliers.

12 (c) If there is a vacancy on the temporary board of
13 directors of the district, the remaining temporary directors shall
14 appoint a person to fill the vacancy in a manner that meets the
15 representational requirements of this section.

16 (d) Temporary directors serve until temporary directors
17 become initial directors as provided by Section 8 of this Act or
18 this Act expires under Section 12, whichever occurs earlier.

19 SECTION 6. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS.
20 As soon as practicable after all the temporary directors have
21 qualified under Section 36.055, Water Code, a majority of the
22 temporary directors shall convene the organizational meeting of the
23 district at a location within the district agreeable to a majority
24 of the directors. If no location can be agreed upon, the
25 organizational meeting shall be at the Val Verde County Courthouse.

26 SECTION 7. CONFIRMATION ELECTION. (a) The temporary
27 directors shall hold an election to confirm the creation of the

1 district.

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

4 (c) Except as provided by this section, a confirmation
5 election must be conducted as provided by Sections 36.017(b)-(i),
6 Water Code, and the Election Code.

7 (d) The district may hold a subsequent confirmation
8 election if the previous confirmation election fails to pass. A
9 subsequent confirmation election may not be held sooner than one
10 year after the date of the previous confirmation election.

11 (e) The confirmation election ballot shall be printed to
12 permit voting for or against the proposition: "To create the Val
13 Verde County Groundwater Conservation District and to authorize the
14 district to impose an ad valorem tax at a rate not to exceed 5 cents
15 for each \$100 valuation of all taxable property in the district with
16 no more than a 2.5-cent tax for each \$100 valuation of all taxable
17 property in the district for the first two tax years after the
18 district's confirmation."

19 (f) If the establishment of the district is not confirmed at
20 an election held under this section before September 1, 2010, the
21 district is dissolved, except that:

22 (1) any debts incurred shall be paid;

23 (2) any assets that remain after the payment of debts
24 shall be transferred to Val Verde County; and

25 (3) the organization of the district shall be
26 maintained until all debts are paid and remaining assets are
27 transferred.

1 SECTION 8. INITIAL DIRECTORS. If creation of the district
2 is confirmed at an election held under Section 7 of this Act, the
3 temporary directors of the district become the initial directors of
4 the district and serve on the board of directors until permanent
5 directors are elected under Section 9 of this Act.

6 SECTION 9. ELECTION OF PERMANENT DIRECTORS. (a) The
7 initial directors serve until the first regularly scheduled
8 election of directors under Subsection (b) of this section.

9 (b) On the uniform election date prescribed by Section
10 41.001, Election Code, in November of the first even-numbered year
11 after the year in which the district is authorized to be created at
12 a confirmation election, an election shall be held in the district
13 for the election of seven directors. The elected directors shall
14 draw lots to determine which three directors shall serve terms
15 lasting until the first regularly scheduled election under Section
16 8804.103, Special District Local Laws Code, as added by this Act,
17 and which four shall serve until the second regularly scheduled
18 directors election.

19 SECTION 10. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

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

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

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

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

9 SECTION 11. STUDY COMPLETION. Not later than the 180th day
10 after the date the district is confirmed at an election held for
11 that purpose, the Texas Water Development Board shall complete the
12 initial study required by Section 8804.161, Special District Local
13 Laws Code, as added by this Act, and deliver the findings of the
14 study to the board.

15 SECTION 12. EXPIRATION. (a) If the creation of the
16 district is not confirmed at a confirmation election held under
17 Section 7 of this Act before September 1, 2010, this Act expires on
18 that date.

19 (b) The expiration of this Act does not affect the liability
20 of the district to pay any debt incurred or the transfer of any
21 assets remaining to Val Verde County as required by Section 7(f) of
22 this Act.

23 SECTION 13. EFFECTIVE DATE. This Act takes effect
24 immediately if it receives a vote of two-thirds of all the members
25 elected to each house, as provided by Section 39, Article III, Texas
26 Constitution. If this Act does not receive the vote necessary for
27 immediate effect, this Act takes effect September 1, 2005.