

By: Escobar

H.B. No. 4086

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Heart's Delight Groundwater Conservation District; providing conditional authority to impose a tax and 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 8805 to read as follows:

CHAPTER 8805. HEART'S DELIGHT GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8805.001. 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 Heart's Delight Groundwater Conservation District.

Sec. 8805.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Brooks County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8805.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held on or before September 1, 2012:

(1) the district is dissolved on September 1, 2012,

1 except that:

2 (A) any debts incurred shall be paid;

3 (B) any assets that remain after the payment of
4 debts shall be transferred to Brooks County; 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 September 1, 2012.

9 Sec. 8805.004. INITIAL DISTRICT TERRITORY. (a) The
10 district is initially composed of the territory described by
11 Section 2 of the Act creating this chapter.

12 (b) The boundaries and field notes contained in Section 2 of
13 the Act creating this chapter form a closure. A mistake made in the
14 field notes or in copying the field notes in the legislative process
15 does not affect the district's:

16 (1) organization, existence, or validity;

17 (2) right to issue any type of bond for the purposes
18 for which the district is created or to pay the principal of and
19 interest on a bond;

20 (3) right to impose or collect an assessment or tax; or

21 (4) legality or operation.

22 Sec. 8805.005. CONSTRUCTION OF CHAPTER. This chapter shall
23 be liberally construed to achieve the legislative intent and
24 purposes of Chapter 36, Water Code. A power granted by Chapter 36,
25 Water Code, or this chapter shall be broadly interpreted to achieve
26 that intent and those purposes.

27 Sec. 8805.006. APPLICABILITY OF OTHER GROUNDWATER

1 CONSERVATION DISTRICT LAW. (a) Except as otherwise provided by
2 this chapter, Chapter 36, Water Code, applies to the district.

3 (b) Section 36.121, Water Code, does not apply to the
4 district.

5 [Sections 8805.007-8805.020 reserved for expansion]

6 SUBCHAPTER A-1. TEMPORARY PROVISIONS

7 Sec. 8805.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a)
8 Five temporary directors shall be appointed as follows:

9 (1) the Brooks County Commissioners Court shall
10 appoint four temporary directors, with one temporary director
11 appointed from each of the four commissioners precincts in the
12 county to represent the precincts in which the temporary directors
13 reside; and

14 (2) the county judge of Brooks County shall appoint
15 one temporary director who resides in the district to represent the
16 district at large.

17 (b) If there is a vacancy on the temporary board of
18 directors of the district, the remaining temporary directors shall
19 appoint a person to fill the vacancy in a manner that meets the
20 representational requirements of this section.

21 (c) Temporary directors serve until the earlier of:

22 (1) the time the temporary directors become initial
23 directors under Section 8805.024; or

24 (2) the date this chapter expires under Section
25 8805.003.

26 Sec. 8805.022. ORGANIZATIONAL MEETING OF TEMPORARY
27 DIRECTORS. As soon as practicable after all the temporary

1 directors have qualified under Section 36.055, Water Code, a
2 majority of the temporary directors shall convene the
3 organizational meeting of the district at a location within the
4 district agreeable to a majority of the temporary directors. If an
5 agreement on location cannot be reached, the organizational meeting
6 shall be at the Brooks County Courthouse.

7 Sec. 8805.023. CONFIRMATION ELECTION. (a) The temporary
8 directors shall hold an election to confirm the creation of the
9 district.

10 (b) Section 41.001(a), Election Code, does not apply to an
11 election held as provided by this section.

12 (c) Except as provided by this section, an election under
13 this section must be conducted as provided by Sections
14 36.017(b)-(f), Water Code, and the Election Code. The provisions of
15 Section 36.017(d), Water Code, relating to the election of
16 permanent directors and ballot language for the levy of a tax do not
17 apply to an election under this section.

18 (d) The ballot for the election must be printed to provide
19 for voting for or against the proposition: "The creation of the
20 Heart's Delight Groundwater Conservation District."

21 (e) If a majority of the votes cast at the election are not
22 in favor of the creation of the district, the temporary directors
23 may call a subsequent confirmation election to be held not sooner
24 than the first anniversary of the preceding confirmation election.

25 Sec. 8805.024. INITIAL DIRECTORS. (a) If creation of the
26 district is confirmed at an election held under Section 8805.023,
27 the temporary directors of the district become the initial

1 directors of the district and serve on the board of directors until
2 permanent directors are elected under Section 8805.025.

3 (b) The initial director for commissioner precinct 2 and the
4 initial at-large director serve terms expiring June 1 following the
5 first regularly scheduled election of directors under Section
6 8805.025, and the initial directors for commissioners precincts 1,
7 3, and 4 serve terms expiring June 1 following the second regularly
8 scheduled election of directors.

9 Sec. 8805.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
10 the uniform election date prescribed by Section 41.001, Election
11 Code, in May of the second even-numbered year after the year in
12 which the district is authorized to be created at a confirmation
13 election, an election shall be held in the district for the election
14 of two directors to replace the initial directors who, under
15 Section 8805.024(b), serve a term expiring June 1 following that
16 election.

17 Sec. 8805.026. EXPIRATION OF SUBCHAPTER. This subchapter
18 expires September 1, 2012.

19 [Sections 8805.027-8805.050 reserved for expansion]

20 SUBCHAPTER B. BOARD OF DIRECTORS

21 Sec. 8805.051. DIRECTORS; TERMS. (a) The district is
22 governed by a board of five directors.

23 (b) Except for temporary or initial directors, directors
24 serve staggered four-year terms, with two or three directors' terms
25 expiring June 1 of each even-numbered year.

26 (c) A director may serve consecutive terms.

27 Sec. 8805.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS

1 PRECINCTS. (a) The directors of the district shall be elected
2 according to the commissioners precinct method as provided by this
3 section.

4 (b) One director shall be elected by the voters of the
5 entire district, and one director shall be elected from each county
6 commissioners precinct by the voters of that precinct.

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

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

14 (1) the precinct that the person seeks to represent;
15 or

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

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

27 Sec. 8805.053. ELECTION DATE. The district shall hold an

1 election to elect the appropriate number of directors on the
2 uniform election date prescribed by Section 41.001, Election Code,
3 in May of each even-numbered year.

4 Sec. 8805.054. DIVISION OF MUNICIPALITY. The provision of
5 Section 36.059(b), Water Code, concerning the division of a
6 municipal corporation among precincts does not apply to the
7 district.

8 Sec. 8805.055. FEES OF OFFICE; REIMBURSEMENT. (a)
9 Notwithstanding Sections 36.060(a) and (d), Water Code, a director
10 may not receive fees of office for performing the duties of
11 director.

12 (b) A director is entitled to receive reimbursement of
13 actual expenses reasonably and necessarily incurred while engaging
14 in activities on behalf of the district in accordance with Sections
15 36.060(b) and (c), Water Code.

16 [Sections 8805.056-8805.100 reserved for expansion]

17 SUBCHAPTER C. POWERS AND DUTIES

18 Sec. 8805.101. GENERAL POWERS. Except as otherwise
19 provided by this chapter, the district has all of the rights,
20 powers, privileges, functions, and duties provided by the general
21 law of this state applicable to groundwater conservation districts
22 created under Section 59, Article XVI, Texas Constitution.

23 Sec. 8805.102. CONTRACTS. The district may enter into a
24 contract with any person for any purpose authorized by law.

25 [Sections 8805.103-8805.150 reserved for expansion]

26 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

27 Sec. 8805.151. FEES. (a) The board by rule may impose

1 reasonable fees, including production fees, on each well:

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

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

4 (b) The board by rule may assess a reasonable fee for a
5 service rendered by the district.

6 (c) In addition to the production fee authorized under this
7 section, the district may assess an export fee or surcharge on
8 groundwater from a well that is produced for transport outside the
9 district as provided by Section 8805.152.

10 (d) Fees authorized by this section may be:

11 (1) assessed annually;

12 (2) used to pay the cost of district operations; and

13 (3) used for any other purpose allowed under Chapter
14 36, Water Code.

15 Sec. 8805.152. IMPACT OF TRANSFER. (a) If the district
16 finds that a transfer of groundwater out of the district negatively
17 impacts any of the factors described by Section 36.122(f), Water
18 Code, the district may impose additional requirements or
19 limitations on the permit that are designed to minimize those
20 impacts.

21 (b) Sections 36.122(c), (i), and (j), Water Code, do not
22 apply to a requirement or limitation imposed under this section.

23 (c) The district may impose a fee or surcharge as an export
24 fee. The rate restrictions under Section 36.122(e), Water Code, do
25 not apply to a fee or surcharge imposed under this subsection.

26 Sec. 8805.153. TAXES. If the board finds that reasonable
27 fees imposed by the district are insufficient to cover necessary

1 costs of district operations and maintenance, the board may hold an
2 election to authorize imposing ad valorem taxes at a rate not to
3 exceed four cents on each \$100 of assessed valuation. The board
4 must hold the election in the manner provided by Section 36.201,
5 Water Code, to obtain voter approval before the district may impose
6 an operations and maintenance tax.

7 Sec. 8805.154. BONDS. The district may issue bonds as
8 provided by Section 36.020(b) and Subchapter F, Chapter 36, Water
9 Code.

10 Sec. 8805.155. GRANTS. The district may solicit and accept
11 grants for any district purpose.

12 SECTION 2. The initial boundaries of the Heart's Delight
13 Groundwater Conservation District are coextensive with the
14 boundaries of Brooks County, Texas, and include all real property
15 in Brooks County save and except the portions of Brooks County which
16 are located within the boundaries of the Kenedy County Groundwater
17 Conservation District as of January 1, 2007, to wit that portion of
18 the 105,095.57-acre tract of land known as the Lasater or Encino
19 Ranch that is described as Tract Four of that certain Mineral
20 Interests Deed dated December 31, 1977, between King Ranch, Inc.,
21 Grantor, and Helen K. Groves, et al, Grantees, recorded in Volume
22 25, Page 166-175, O&G Records, Kenedy County, Texas, that is
23 located in Brooks County, Texas, containing 77,329.25 acres of
24 land, more or less, with the exception of the following surveys in
25 Brooks County which are excluded from said Tract Four:

26 (1) Survey 141, Certificate 181, Tex-Mex. Ry. Co.

27 (2) Survey 143, Certificate 181, Tex-Mex. Ry. Co.

1 (3) Survey 145, Certificate 181, Tex-Mex. Ry. Co.

2 SECTION 3. The initial board of directors of the Heart's
3 Delight Groundwater Conservation District shall hold the first
4 regularly scheduled election of directors of the Heart's Delight
5 Groundwater Conservation District under Section 8805.053, Special
6 District Local Laws Code, as added by this Act, on the uniform
7 election date in May in the second even-numbered year following the
8 year in which the district's creation is confirmed under Section
9 8805.023, Special District Local Laws Code, as added by this Act.

10 SECTION 4. (a) The legal notice of the intention to
11 introduce this Act, setting forth the general substance of this
12 Act, has been published as provided by law, and the notice and a
13 copy of this Act have been furnished to all persons, agencies,
14 officials, or entities to which they are required to be furnished
15 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
16 Government Code.

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

19 (c) The Texas Commission on Environmental Quality has filed
20 its recommendations relating to this Act with the governor,
21 lieutenant governor, and speaker of the house of representatives
22 within the required time.

23 (d) All requirements of the constitution and laws of this
24 state and the rules and procedures of the legislature with respect
25 to the notice, introduction, and passage of this Act are fulfilled
26 and accomplished.

27 SECTION 5. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2007.