

By: Rose

H.B. No. 4088

Substitute the following for H.B. No. 4088:

By: Puente

C.S.H.B. No. 4088

A BILL TO BE ENTITLED

AN ACT

relating to the Plum Creek Conservation District.

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

SECTION 1. Chapter 126, Acts of the 55th Legislature, Regular Session, 1957, is amended by adding Sections 10A, 10B, and 10C to read as follows:

Sec. 10A. AMENDMENTS TO LAW GOVERNING DISTRICT BOUNDARIES, BOARD OF DIRECTORS, POWERS, AND TAXATION. (a) Subsections (c), (d), (i), and (j) of this section are subject to ratification by the voters of the district at an election held under Section 10B of this Act.

(b) In this section and in Sections 10B and 10C of this Act:

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

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

(3) "District" means the Plum Creek Conservation District.

(c) In addition to the portions of Caldwell and Hays Counties included in the boundaries of the district on August 31, 2007, the boundaries of the district include all the remaining territory in Caldwell County.

(d) The district is governed by a board of seven directors elected or appointed as provided by Sections 10B(a) and 10C of this Act.

1 (e) Not later than September 10, 2007, the commissioners
2 courts of Caldwell and Hays Counties shall appoint seven temporary
3 directors of the district as provided by Subsections (f) and (g) of
4 this section to serve terms that expire January 1, 2009.

5 (f) The Commissioners Court of Caldwell County shall
6 appoint five temporary directors as follows:

7 (1) one director to represent the entire part of the
8 county that is in the district as enlarged under Subsection (c) of
9 this section; and

10 (2) four directors, with each director representing
11 one of the four county commissioners precincts to the extent the
12 precinct is in the district as enlarged under Subsection (c) of this
13 section.

14 (g) The Commissioners Court of Hays County shall appoint two
15 temporary directors as follows:

16 (1) one director to represent the part of the district
17 that is in the city of Kyle; and

18 (2) one director to represent the part of the district
19 that is in Hays County but not in the city of Kyle.

20 (h) A temporary director must reside in the area the
21 director is appointed to represent.

22 (i) The district shall adopt rules regarding remedies the
23 district may impose to mitigate damages if a permitted well's
24 production of groundwater unreasonably affects another owner's
25 well. The rules may address:

26 (1) whether a complaint must be received in writing;

27 (2) the criteria for determining which wells are

1 affected for purposes of consideration of a complaint;

2 (3) what evidence must be provided at a hearing;

3 (4) whether the parties must enter into discussions or
4 formal mediation for the purpose of resolving a complaint;

5 (5) whether the board should amend or revoke the
6 permit for an offending well; and

7 (6) any other matter the board considers appropriate.

8 (j) The district may not impose an ad valorem tax for flood
9 control purposes at a rate that exceeds \$0.017 per \$100 of valuation
10 of taxable property in the district.

11 Sec. 10B. RATIFICATION ELECTION. (a) The temporary
12 directors appointed under Section 10A(e) of this Act shall order an
13 election to be held in the district as enlarged by Section 10A(c) of
14 this Act on the uniform election date in November 2007 to ratify the
15 following proposition:

16 (1) the enlargement of the district as provided by
17 Section 10A(c) of this Act;

18 (2) the governance of the district by a board
19 consisting of seven directors, with six directors elected from
20 single-member voting districts as provided by Section 10C of this
21 Act and Subsection (e) of this section and one director appointed by
22 the Commissioners Court of Caldwell County;

23 (3) the duty of the district to adopt rules to provide
24 for the mitigation of damages to certain well owners as provided by
25 Section 10A(i) of this Act; and

26 (4) the limitation on the rate of ad valorem taxation
27 for flood control purposes as provided by Section 10A(j) of this

1 Act.

2 (b) To take effect, the proposition described by Subsection
3 (a) of this section must be approved by a majority of the voters
4 voting at the election held by the district under that subsection.

5 (c) The ballot for the election under Subsection (a) of this
6 section must read as follows:

7 "By voting YES on this ballot, you are voting in favor of all
8 four of the following propositions with regard to the territory,
9 directors, and powers of the Plum Creek Conservation District:

10 "(1) the enlargement of the Plum Creek Conservation
11 District to include that part of Caldwell County not already in the
12 district;

13 "(2) the governance of the Plum Creek Conservation
14 District by a board consisting of seven directors, with six
15 directors elected from single-member voting districts and one
16 director appointed by the Commissioners Court of Caldwell County;

17 "(3) the duty of the Plum Creek Conservation District
18 to adopt rules to provide for the mitigation of damages to certain
19 well owners whose groundwater production has been unreasonably
20 affected by another well in the district; and

21 "(4) the limitation of the Plum Creek Conservation
22 District's rate of ad valorem taxation for flood control purposes
23 to a rate not to exceed \$0.017 per \$100 of valuation of taxable
24 property in the district.

25 "By voting NO on this ballot, you are voting against all four
26 of the propositions listed above."

27 (d) If a majority of the voters approve the ballot

1 proposition, the proposition is ratified and the boundaries of the
2 district are enlarged as provided by Section 10A(c) of this Act. A
3 copy of the metes and bounds description of the enlarged district
4 must be filed with the Texas Commission on Environmental Quality
5 and in the deed records of Caldwell and Hays Counties. The enlarged
6 boundaries supersede the description of the boundaries contained in
7 Section 3, Chapter 126, Acts of the 55th Legislature, Regular
8 Session, 1957.

9 (e) If a majority of the voters approve the ballot
10 proposition, the temporary board, in conjunction with the
11 Commissioners Court of Hays County, the Commissioners Court of
12 Caldwell County, the secretary of state, and the United States
13 Department of Justice, shall divide the district into six
14 single-member voting districts, with four single-member voting
15 districts in Caldwell County and two single-member voting districts
16 in Hays County. The boundaries of the single-member districts must
17 be established in time to apply to an election of directors on the
18 uniform election date in November 2008.

19 (f) If a majority of the voters approve the ballot
20 proposition, the board elected under Section 10C of this Act shall
21 adopt rules taking effect not later than June 1, 2009, that provide
22 for the mitigation of damages to certain well owners as provided by
23 Section 10A(i) of this Act.

24 (g) If a majority of the voters approve the ballot
25 proposition, the limitation on the rate of ad valorem taxation for
26 flood control purposes as provided by Section 10A(j) of this Act
27 takes effect January 1, 2008.

1 (h) If a majority of the voters approve the ballot
2 proposition, each provision listed in Subsections (a)(1) through
3 (4) of this section supersedes Chapter 126, Acts of the 55th
4 Legislature, Regular Session, 1957, as that chapter existed before
5 the effective date of the Act enacting this section, to the extent
6 of any conflict or inconsistency.

7 Sec. 10C. ELECTION OF DIRECTORS. (a) This section is
8 effective only if a majority of the voters approve the ballot
9 proposition under Section 10B of this Act.

10 (b) At the general election in November 2008, the temporary
11 directors appointed under Section 10A of this Act shall place on the
12 ballot the name of each candidate filing for a position as a
13 director to represent one of the single-member districts
14 established under Section 10B(e) of this Act.

15 (c) The candidate who receives the largest number of votes
16 in each of the single-member districts is elected to the board.

17 (d) The directors elected under Subsection (c) of this
18 section shall draw lots to determine which:

19 (1) two of the directors elected from Caldwell County
20 serve until January 1, 2011;

21 (2) one of the directors elected from Hays County
22 serves until January 1, 2011;

23 (3) two of the directors elected from Caldwell County
24 serve until January 1, 2013; and

25 (4) one of the directors elected from Hays County
26 serves until January 1, 2013.

27 (e) The director appointed by the Caldwell County

1 Commissioners Court shall serve a term expiring January 1, 2013.

2 (f) Except for the initially elected directors, directors
3 serve staggered terms of four years, with the terms of three or four
4 directors expiring January 1 of each odd-numbered year.

5 (g) The appropriate number of directors shall be elected on
6 the uniform date for elections in November of each even-numbered
7 year.

8 (h) A director holding an elective position must reside in
9 the area the director is elected or appointed to represent.

10 (i) The board may revise the single-member districts as
11 necessary or appropriate. The board shall revise each
12 single-member district after each federal decennial census to
13 reflect population changes. When the boundaries of the
14 single-member districts are changed, a director in office on the
15 effective date of the change, or elected or appointed before the
16 effective date of the change to a term of office beginning on or
17 after the effective date of the change, is entitled to serve the
18 term or remainder of the term in the single-member district to which
19 elected or appointed even though the change in boundaries places
20 the person's residence outside the single-member district for which
21 the person was elected or appointed.

22 SECTION 2. The terms of the members of the Plum Creek
23 Conservation District board of directors serving on the effective
24 date of this Act expire when a majority of the temporary directors
25 appointed under Section 10A(e), Chapter 126, Acts of the 55th
26 Legislature, Regular Session, 1957, as added by this Act, have
27 qualified to serve.

1 SECTION 3. If the ballot proposition under Section 10B,
2 Chapter 126, Acts of the 55th Legislature, Regular Session, 1957,
3 as added by this Act, is not approved by a majority of the voters
4 voting in an election held for that purpose:

5 (1) notwithstanding Section 10A(e), Chapter 126, Acts
6 of the 55th Legislature, Regular Session, 1957, as added by this
7 Act, the temporary directors appointed under that section continue
8 to serve until the commissioners courts of Hays and Caldwell
9 Counties appoint six directors in the manner provided by Section 4,
10 Chapter 126, Acts of the 55th Legislature, Regular Session, 1957;

11 (2) Sections 10A(c), (d), (i), and (j), Chapter 126,
12 Acts of the 55th Legislature, Regular Session, 1957, as added by
13 this Act, do not take effect; and

14 (3) Sections 10A, 10B, and 10C, Chapter 126, Acts of
15 the 55th Legislature, Regular Session, 1957, as added by this Act,
16 expire September 1, 2009.

17 SECTION 4. (a) The legal notice of the intention to
18 introduce this Act, setting forth the general substance of this
19 Act, has been published as provided by law, and the notice and a
20 copy of this Act have been furnished to all persons, agencies,
21 officials, or entities to which they are required to be furnished
22 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
23 Government Code.

24 (b) The governor, one of the required recipients, has
25 submitted the notice and Act to the Texas Commission on
26 Environmental Quality.

27 (c) The Texas Commission on Environmental Quality has filed

1 its recommendations relating to this Act with the governor, the
2 lieutenant governor, and the speaker of the house of
3 representatives within the required time.

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

8 SECTION 5. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2007.