

By: Rose

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), (j), and (k) 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 except the part that is included in the boundaries of the Edwards Aquifer Authority on that date.

(d) The district is governed by a board of seven directors elected from single-member districts as provided by Sections 10B(e)

1 and 10C of this Act.

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

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

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

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

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

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

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

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

23 (i) The district shall adopt rules prohibiting the export of  
24 groundwater from the district except to supply public drinking  
25 water in Blanco, Caldwell, or Hays County.

26 (j) The district shall adopt rules regarding remedies the  
27 district may impose to mitigate damages if a permitted well's

1 production of groundwater exported out of the district unreasonably  
2 affects another owner's well the production of groundwater from  
3 which is not exported. The rules may address:

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

5 (2) the criteria for determining which wells are  
6 affected for purposes of consideration of a complaint;

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

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

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

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

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

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

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

23 (2) the governance of the district by a board  
24 consisting of seven directors elected from single-member voting  
25 districts as provided by Sections 10A(d) and 10C of this Act and  
26 Subsection (e) of this section;

27 (3) the duty of the district to adopt rules

1 prohibiting exports of groundwater from the district as provided by  
2 Section 10A(i) of this Act;

3 (4) the duty of the district to adopt rules to provide  
4 for the mitigation of damages to certain well owners as provided by  
5 Section 10A(j) of this Act; and

6 (5) the limitation on the rate of ad valorem taxation  
7 for flood control purposes as provided by Section 10A(k) of this  
8 Act.

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

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

14 "By voting YES on this ballot, you are voting in favor of all  
15 five of the following propositions with regard to the territory,  
16 directors, and powers of the Plum Creek Conservation District:

17 (1) the enlargement of the Plum Creek Conservation  
18 District to include that part of Caldwell County not already in the  
19 district or in the boundaries of the Edwards Aquifer Authority;

20 (2) the governance of the Plum Creek Conservation  
21 District by a board consisting of seven directors elected from  
22 single-member voting districts;

23 (3) the duty of the Plum Creek Conservation District  
24 to adopt rules prohibiting exports of groundwater from the district  
25 except to supply public drinking water in Blanco, Caldwell, or Hays  
26 County;

27 (4) the duty of the Plum Creek Conservation District

1 to adopt rules to provide for the mitigation of damages to certain  
2 well owners whose groundwater production has been unreasonably  
3 affected by the export of groundwater from another well in the  
4 district; and

5 (5) the limitation of the Plum Creek Conservation  
6 District's rate of ad valorem taxation for flood control purposes  
7 to a rate not to exceed \$0.017 per \$100 of valuation of taxable  
8 property in the district.

9 By voting NO on this ballot, you are voting against all five  
10 of the propositions listed above."

11 (d) If a majority of the voters approve the ballot  
12 proposition, the proposition is ratified and the boundaries of the  
13 district are enlarged as provided by Section 10A(c) of this Act. A  
14 copy of the metes and bounds description of the enlarged district  
15 must be filed with the Texas Commission on Environmental Quality  
16 and in the deed records of Caldwell and Hays Counties. The enlarged  
17 boundaries supersede the description of the boundaries contained in  
18 Section 3, Chapter 126, Acts of the 55th Legislature, Regular  
19 Session, 1957.

20 (e) If a majority of the voters approve the ballot  
21 proposition, the temporary board, in conjunction with the  
22 Commissioners Court of Hays County, the Commissioners Court of  
23 Caldwell County, the secretary of state, and the United States  
24 Department of Justice, shall divide the district into seven  
25 single-member voting districts with five single-member voting  
26 districts in Caldwell County and two single-member voting districts  
27 in Hays County. The boundaries of the single-member districts must

1 be established in time to apply to an election of directors on the  
2 uniform election date in November 2008.

3 (f) If a majority of the voters approve the ballot  
4 proposition, the board elected under Section 10C of this Act shall  
5 adopt rules taking effect not later than June 1, 2009, that:

6 (1) prohibit exports of groundwater from the district  
7 as provided by Section 10A(i) of this Act; and

8 (2) provide for the mitigation of damages to certain  
9 well owners as provided by Section 10A(j) of this Act.

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

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

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

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

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

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

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

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

9           (3) three of the directors elected from Caldwell  
10 County serve until January 1, 2013; and

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

13       (e) Except for the initially elected directors, directors  
14 serve staggered terms of four years, with the terms of three or four  
15 directors expiring January 1 of each odd-numbered year.

16       (f) The appropriate number of directors shall be elected on  
17 the uniform date for elections in November of each even-numbered  
18 year.

19       (g) A director must reside in the area the director is  
20 elected to represent.

21       (h) The board may revise the single-member districts as  
22 necessary or appropriate. The board shall revise each  
23 single-member district after each federal decennial census to  
24 reflect population changes. When the boundaries of the  
25 single-member districts are changed, a director in office on the  
26 effective date of the change, or elected or appointed before the  
27 effective date of the change to a term of office beginning on or

1 after the effective date of the change, is entitled to serve the  
2 term or remainder of the term in the single-member district to which  
3 elected or appointed even though the change in boundaries places  
4 the person's residence outside the single-member district for which  
5 the person was elected or appointed.

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

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

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

22 (2) Sections 10A(c), (d), (i), (j), and (k), Chapter  
23 126, Acts of the 55th Legislature, Regular Session, 1957, as added  
24 by this Act, do not take effect; and

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



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

8           (b) The governor, one of the required recipients, has  
9 submitted the notice and Act to the Texas Commission on  
10 Environmental Quality.

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

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

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