

By: Estes

S.B. No. 1983

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Upper Trinity Groundwater Conservation District; providing authority to 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 8830 to read as follows:

CHAPTER 8830. UPPER TRINITY GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8830.001. 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 Upper Trinity Groundwater Conservation District.

Sec. 8830.002. NATURE OF DISTRICT; FINDINGS. (a) The district is a groundwater conservation district in Hood, Montague, Parker, and Wise Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

(c) All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers

1 conferred by this chapter and by Chapter 36, Water Code.

2 (d) Any fees imposed by the district under this chapter are
3 necessary to pay for the costs of accomplishing the purposes of the
4 district, including the conservation and management of groundwater
5 resources, as provided by this chapter and Section 59, Article XVI,
6 Texas Constitution.

7 Sec. 8830.003. CONFIRMATION ELECTION REQUIRED. If the
8 creation of the district is not confirmed at a confirmation
9 election held under Section 8830.023 before September 1, 2009:

10 (1) the district is dissolved on September 1, 2009,
11 except that:

12 (A) any debts incurred shall be paid;

13 (B) any assets that remain after the payment of
14 debts shall be transferred in equal amounts to Hood, Montague,
15 Parker, and Wise Counties; and

16 (C) the organization of the district shall be
17 maintained until all debts are paid and remaining assets are
18 transferred; and

19 (2) this chapter expires September 1, 2012.

20 Sec. 8830.004. INITIAL DISTRICT TERRITORY. The initial
21 boundaries of the district are coextensive with the boundaries of
22 Hood, Montague, Parker, and Wise Counties.

23 Sec. 8830.005. APPLICABILITY OF OTHER GROUNDWATER
24 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
25 chapter, Chapter 36, Water Code, applies to the district.

26 Sec. 8830.006. CONSTRUCTION OF CHAPTER. This chapter shall
27 be liberally construed to achieve the legislative intent and

1 purposes of Chapter 36, Water Code. A power granted by Chapter 36,
2 Water Code, or this chapter shall be broadly interpreted to achieve
3 that intent and those purposes.

4 [Sections 8830.007-8830.020 reserved for expansion]

5 SUBCHAPTER A-1. TEMPORARY PROVISIONS

6 Sec. 8830.021. APPOINTMENT OF TEMPORARY DIRECTORS.

7 (a) The district is initially governed by a board of eight
8 temporary directors appointed as provided by Section 8830.051(a).

9 (b) Temporary directors shall be appointed not later than
10 the 90th day after the effective date of the Act enacting this
11 chapter. If after the 90th day fewer than eight temporary directors
12 have been appointed, each unfilled position shall be considered a
13 vacancy and filled in accordance with Subsection (c).

14 (c) If a vacancy occurs on the temporary board, the
15 remaining temporary directors shall appoint a person to fill the
16 vacancy in a manner that meets the representational requirements of
17 this section.

18 (d) To be eligible to serve as a temporary director, a
19 person must be a registered voter in the appointing county.

20 (e) Each temporary director must qualify to serve as a
21 director in the manner provided by Section 36.055, Water Code.

22 (f) Temporary directors serve until the earlier of:

23 (1) the time the temporary directors become the
24 initial permanent directors under Section 8830.024; or

25 (2) the date this chapter expires under Section
26 8830.003.

27 Sec. 8830.022. ORGANIZATIONAL MEETING OF TEMPORARY

1 DIRECTORS. As soon as practicable after all the temporary
2 directors have qualified under Section 36.055, Water Code, a
3 majority of the temporary directors shall convene the
4 organizational meeting of the district at a location in the
5 district agreeable to a majority of the directors. If an agreement
6 on location cannot be reached, the organizational meeting shall be
7 at the Poolville Junior High School in Parker County.

8 Sec. 8830.023. CONFIRMATION ELECTION. (a) The temporary
9 directors shall hold an election to confirm the creation of the
10 district.

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

13 (c) Except as provided by this section, a confirmation
14 election must be conducted as provided by Sections 36.017(b), (c),
15 and (e)-(g), Water Code, and by the Election Code.

16 (d) The ballot for the election must be printed to provide
17 for voting for or against the proposition: "The creation of a
18 nontaxing, locally controlled groundwater conservation district to
19 be known as the Upper Trinity Groundwater Conservation District, in
20 lieu and instead of anticipated action by the Texas Commission on
21 Environmental Quality to otherwise establish a conservation and
22 reclamation district within the same or a larger area."

23 (e) If a majority of the votes cast at the election are not
24 in favor of the creation of the district, the temporary directors
25 may order a subsequent confirmation election to be held in
26 accordance with this section.

27 Sec. 8830.024. INITIAL PERMANENT DIRECTORS; INITIAL TERMS.

1 If creation of the district is confirmed at an election held under
2 Section 8830.023:

3 (1) the temporary directors become the initial
4 permanent directors; and

5 (2) the two directors appointed from each county shall
6 draw lots to determine which director serves a term expiring June 1
7 of the first odd-numbered year after the confirmation election and
8 which director serves a term expiring June 1 of the next
9 odd-numbered year.

10 Sec. 8830.025. EXPIRATION OF SUBCHAPTER. This subchapter
11 expires September 1, 2012.

12 [Sections 8830.026-8830.050 reserved for expansion]

13 SUBCHAPTER B. BOARD OF DIRECTORS

14 Sec. 8830.051. GOVERNING BODY; TERMS. (a) The district is
15 governed by a board of eight directors appointed as follows:

16 (1) two directors appointed by the Hood County
17 Commissioners Court;

18 (2) two directors appointed by the Montague County
19 Commissioners Court;

20 (3) two directors appointed by the Parker County
21 Commissioners Court; and

22 (4) two directors appointed by the Wise County
23 Commissioners Court.

24 (b) Directors serve staggered four-year terms, with the
25 term of one director from each of the four counties expiring on June
26 1 of each odd-numbered year.

27 (c) A director may serve multiple consecutive terms.

Sec. 8830.052. DIRECTOR ELIGIBILITY; QUALIFICATION.

(a) To be eligible to serve as a director, a person must be a registered voter in the appointing county.

(b) Each director must qualify to serve in the manner provided by Section 36.055, Water Code.

Sec. 8830.053. VACANCIES. If a vacancy occurs on the board, the remaining directors shall appoint a person to fill the vacancy in a manner that meets the representational requirements of Section 8830.051.

Sec. 8830.054. COMPENSATION; REIMBURSEMENT.

(a) Notwithstanding Sections 36.060(a) and (d), Water Code, a director may not receive compensation for performing the duties of director.

(b) A director is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

[Sections 8830.055-8830.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8830.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as provided by this chapter, the district has the powers and duties provided by the general law of this state, including Chapter 36, Water Code, and Section 59, Article XVI, Texas Constitution, applicable to groundwater conservation districts.

Sec. 8830.102. CONTRACTS. The district may enter into a contract with any person, public or private, for any purpose authorized by law.

1 Sec. 8830.103. APPLICABILITY OF DISTRICT REGULATIONS.

2 (a) Groundwater regulation under this chapter applies to all
3 persons except as exempted under Section 36.117, Water Code, or
4 this chapter.

5 (b) For purposes of the district's implementation and
6 enforcement of this chapter, Chapter 36, Water Code, and the rules
7 of the district, sovereign immunity to suit and to liability of a
8 governmental entity is waived.

9 Sec. 8830.104. WELL SPACING RULES; EXEMPTIONS. (a) Except
10 as provided by Subsection (b), the district shall exempt from the
11 well spacing requirements adopted by the district any well that is
12 completed on or before the effective date of those requirements.

13 (b) The district may provide by rule that a well may lose its
14 exemption under this section if the well is modified in a manner
15 that substantially increases the capacity of the well after the
16 effective date of the well spacing requirements adopted by the
17 district.

18 (c) Except as provided by this section and notwithstanding
19 Section 8830.103, the district may require any well or class of
20 wells exempt from permitting under Chapter 36, Water Code, to
21 comply with the well spacing requirements adopted by the district.
22 The district shall apply well spacing requirements uniformly to any
23 well or class of wells based on the size or capacity of the well and
24 without regard to the type of use of the groundwater produced by the
25 well.

26 Sec. 8830.105. REGISTRATION AND REPORTING REQUIREMENTS FOR
27 CERTAIN EXEMPT WELLS. The district may adopt rules that require the

1 owner or operator of a well or class of wells exempt from permitting
2 under Section 36.117, Water Code, to register the well with the
3 district and to report groundwater withdrawals from the well using
4 reasonable and appropriate reporting methods and frequency.

5 Sec. 8830.106. ENFORCEMENT. (a) The district may enforce
6 this chapter in the manner provided by Chapter 36, Water Code. In
7 lieu of a remedy available to the district under Section 36.102,
8 Water Code, or in addition to those remedies, the district may
9 impose a fee in addition to a fee assessed under Section 8830.152 on
10 a person producing groundwater in violation of a rule of the
11 district, including the failure or refusal to comply with any order
12 or rule of the district to reduce or cease groundwater usage. The
13 purpose of a fee authorized under this subsection is to serve as a
14 disincentive to producing groundwater except as authorized by the
15 district.

16 (b) A fee imposed under Subsection (a) may not exceed an
17 amount equal to 10 times the amount of a fee assessed under Section
18 8830.152.

19 Sec. 8830.107. LAW NOT APPLICABLE. Section 36.121, Water
20 Code, does not apply to the district.

21 Sec. 8830.108. NO EMINENT DOMAIN POWER. The district may
22 not exercise the power of eminent domain.

23 [Sections 8830.109-8830.150 reserved for expansion]

24 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

25 Sec. 8830.151. TAXES PROHIBITED. The district may not
26 impose a tax. Sections 36.020(a) and 36.201-36.204, Water Code, do
27 not apply to the district.

1 Sec. 8830.152. DISTRICT REVENUES. (a) The district by
2 rule, resolution, or order may establish, amend, pledge, encumber,
3 expend the proceeds from, and assess to any person production fees
4 based on the amount of groundwater authorized by permit to be
5 withdrawn from a well or on the amount of water actually withdrawn,
6 to enable the district to fulfill its purposes and regulatory
7 functions as provided by this chapter. The district may use
8 revenues generated by fees it assesses for any lawful purpose.

9 (b) Notwithstanding any provision of general law to the
10 contrary, a fee authorized by Subsection (a) may not exceed:

11 (1) \$1 per acre-foot annually for groundwater used for
12 agricultural purposes; or

13 (2) 30 cents per thousand gallons annually for
14 groundwater used for nonagricultural purposes.

15 (c) Notwithstanding any provision of general law or this
16 chapter to the contrary, if any, the district may assess a
17 production fee under this section for groundwater produced from a
18 well or class of wells exempt from permitting under Section 36.117,
19 Water Code. A production fee assessed by the district under this
20 subsection must be based on the amount of groundwater actually
21 withdrawn from the well and may not exceed the amount established by
22 the district for permitted uses under Subsection (b)(2).

23 (d) Notwithstanding Section 36.1071(f), Water Code, the
24 district by rule, resolution, or order before the adoption of its
25 management plan may:

26 (1) establish, assess, and enforce the collection of
27 production fees under this section; and

1 (2) establish and enforce metering and reporting
2 requirements.

3 (e) The district by rule may establish a temporary or
4 permanent discounted fee rate for persons who prepay production
5 fees to the district under this section on or before the dates
6 established by district rule.

7 SECTION 2. The legislature finds that the sovereign
8 immunity of a government or governmental subdivision or agency to
9 suit and from liability is already waived for the purpose of the
10 implementation and enforcement by a groundwater conservation
11 district of Chapter 36, Water Code, notwithstanding the changes in
12 law made by this Act.

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

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

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

26 (d) All requirements of the constitution and laws of this
27 state and the rules and procedures of the legislature with respect

1 to the notice, introduction, and passage of this Act are fulfilled
2 and accomplished.

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