

1-1 By: Estes S.B. No. 1983
1-2 (In the Senate - Filed March 30, 2007; April 3, 2007, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 23, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; April 23, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1983 By: Estes

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of the Upper Trinity Groundwater
1-11 Conservation District; providing authority to issue bonds.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle H, Title 6, Special District Local Laws
1-14 Code, is amended by adding Chapter 8830 to read as follows:

1-15 CHAPTER 8830. UPPER TRINITY GROUNDWATER

1-16 CONSERVATION DISTRICT

1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 Sec. 8830.001. DEFINITIONS. In this chapter:

1-19 (1) "Board" means the board of directors of the
1-20 district.

1-21 (2) "Director" means a member of the board.

1-22 (3) "District" means the Upper Trinity Groundwater
1-23 Conservation District.

1-24 Sec. 8830.002. NATURE OF DISTRICT; FINDINGS. (a) The
1-25 district is a groundwater conservation district in Hood, Montague,
1-26 Parker, and Wise Counties created under and essential to accomplish
1-27 the purposes of Section 59, Article XVI, Texas Constitution.

1-28 (b) The district is created to serve a public use and
1-29 benefit.

1-30 (c) All of the land and other property included within the
1-31 boundaries of the district will be benefited by the works and
1-32 projects that are to be accomplished by the district under powers
1-33 conferred by this chapter and by Chapter 36, Water Code.

1-34 (d) Any fees imposed by the district under this chapter are
1-35 necessary to pay for the costs of accomplishing the purposes of the
1-36 district, including the conservation and management of groundwater
1-37 resources, as provided by this chapter and Section 59, Article XVI,
1-38 Texas Constitution.

1-39 Sec. 8830.003. CONFIRMATION ELECTION REQUIRED. If the
1-40 creation of the district is not confirmed at a confirmation
1-41 election held under Section 8830.023 before September 1, 2009:

1-42 (1) the district is dissolved on September 1, 2009,
1-43 except that:

1-44 (A) any debts incurred shall be paid;

1-45 (B) any assets that remain after the payment of
1-46 debts shall be transferred in equal amounts to Hood, Montague,
1-47 Parker, and Wise Counties; and

1-48 (C) the organization of the district shall be
1-49 maintained until all debts are paid and remaining assets are
1-50 transferred; and

1-51 (2) this chapter expires September 1, 2012.

1-52 Sec. 8830.004. INITIAL DISTRICT TERRITORY. The initial
1-53 boundaries of the district are coextensive with the boundaries of
1-54 Hood, Montague, Parker, and Wise Counties.

1-55 Sec. 8830.005. APPLICABILITY OF OTHER GROUNDWATER
1-56 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
1-57 chapter, Chapter 36, Water Code, applies to the district.

1-58 Sec. 8830.006. CONSTRUCTION OF CHAPTER. This chapter shall
1-59 be liberally construed to achieve the legislative intent and
1-60 purposes of Chapter 36, Water Code. A power granted by Chapter 36,
1-61 Water Code, or this chapter shall be broadly interpreted to achieve
1-62 that intent and those purposes.

1-63 [Sections 8830.007-8830.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8830.021. APPOINTMENT OF TEMPORARY DIRECTORS.

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

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

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

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

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

(f) Temporary directors serve until the earlier of:

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

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

Sec. 8830.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS.

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

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

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

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

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

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

Sec. 8830.024. INITIAL PERMANENT DIRECTORS; INITIAL TERMS. If creation of the district is confirmed at an election held under Section 8830.023:

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

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

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

[Sections 8830.026-8830.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

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

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

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

3-1 (3) two directors appointed by the Parker County
3-2 Commissioners Court; and

3-3 (4) two directors appointed by the Wise County
3-4 Commissioners Court.

3-5 (b) Directors serve staggered four-year terms, with the
3-6 term of one director from each of the four counties expiring on June
3-7 1 of each odd-numbered year.

3-8 (c) A director may serve multiple consecutive terms.
3-9 Sec. 8830.052. DIRECTOR ELIGIBILITY; QUALIFICATION.

3-10 (a) To be eligible to serve as a director, a person must be a
3-11 registered voter in the appointing county.

3-12 (b) Each director must qualify to serve in the manner
3-13 provided by Section 36.055, Water Code.

3-14 Sec. 8830.053. VACANCIES. If a vacancy occurs on the board,
3-15 the remaining directors shall appoint a person to fill the vacancy
3-16 in a manner that meets the representational requirements of Section
3-17 8830.051.

3-18 Sec. 8830.054. COMPENSATION; REIMBURSEMENT.

3-19 (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a
3-20 director may not receive compensation for performing the duties of
3-21 director.

3-22 (b) A director is entitled to reimbursement of actual
3-23 expenses reasonably and necessarily incurred while engaging in
3-24 activities on behalf of the district.

3-25 [Sections 8830.055-8830.100 reserved for expansion]

3-26 SUBCHAPTER C. POWERS AND DUTIES

3-27 Sec. 8830.101. GROUNDWATER CONSERVATION DISTRICT POWERS
3-28 AND DUTIES. Except as provided by this chapter, the district has
3-29 the powers and duties provided by the general law of this state,
3-30 including Chapter 36, Water Code, and Section 59, Article XVI,
3-31 Texas Constitution, applicable to groundwater conservation
3-32 districts.

3-33 Sec. 8830.102. CONTRACTS. The district may enter into a
3-34 contract with any person, public or private, for any purpose
3-35 authorized by law.

3-36 Sec. 8830.103. APPLICABILITY OF DISTRICT REGULATIONS.

3-37 (a) Groundwater regulation under this chapter applies to all
3-38 persons except as exempted under Section 36.117, Water Code, or
3-39 this chapter.

3-40 (b) For purposes of the district's implementation and
3-41 enforcement of this chapter, Chapter 36, Water Code, and the rules
3-42 of the district, sovereign immunity to suit and to liability of a
3-43 governmental entity is waived.

3-44 Sec. 8830.104. WELL SPACING RULES; EXEMPTIONS. (a) Except
3-45 as provided by Subsection (b), the district shall exempt from the
3-46 well spacing requirements adopted by the district any well that is
3-47 completed on or before the effective date of those requirements.

3-48 (b) The district may provide by rule that a well may lose its
3-49 exemption under this section if the well is modified in a manner
3-50 that substantially increases the capacity of the well after the
3-51 effective date of the well spacing requirements adopted by the
3-52 district.

3-53 (c) Except as provided by this section and notwithstanding
3-54 Section 8830.103, the district may require any well or class of
3-55 wells exempt from permitting under Chapter 36, Water Code, to
3-56 comply with the well spacing requirements adopted by the district.
3-57 The district shall apply well spacing requirements uniformly to any
3-58 well or class of wells based on the size or capacity of the well and
3-59 without regard to the type of use of the groundwater produced by the
3-60 well.

3-61 Sec. 8830.105. REGISTRATION AND REPORTING REQUIREMENTS FOR
3-62 CERTAIN EXEMPT WELLS. The district may adopt rules that require the
3-63 owner or operator of a well or class of wells exempt from permitting
3-64 under Section 36.117, Water Code, to register the well with the
3-65 district and to report groundwater withdrawals from the well using
3-66 reasonable and appropriate reporting methods and frequency.

3-67 Sec. 8830.106. ENFORCEMENT. (a) The district may enforce
3-68 this chapter in the manner provided by Chapter 36, Water Code. In
3-69 lieu of a remedy available to the district under Section 36.102,

4-1 Water Code, or in addition to those remedies, the district may
4-2 impose a fee in addition to a fee assessed under Section 8830.152 on
4-3 a person producing groundwater in violation of a rule of the
4-4 district, including the failure or refusal to comply with any order
4-5 or rule of the district to reduce or cease groundwater usage. The
4-6 purpose of a fee authorized under this subsection is to serve as a
4-7 disincentive to producing groundwater except as authorized by the
4-8 district.

4-9 (b) A fee imposed under Subsection (a) may not exceed an
4-10 amount equal to 10 times the amount of a fee assessed under Section
4-11 8830.152.

4-12 Sec. 8830.107. LAW NOT APPLICABLE. Section 36.121, Water
4-13 Code, does not apply to the district.

4-14 Sec. 8830.108. NO EMINENT DOMAIN POWER. The district may
4-15 not exercise the power of eminent domain.

4-16 [Sections 8830.109-8830.150 reserved for expansion]

4-17 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

4-18 Sec. 8830.151. TAXES PROHIBITED. The district may not
4-19 impose a tax. Sections 36.020(a) and 36.201-36.204, Water Code, do
4-20 not apply to the district.

4-21 Sec. 8830.152. DISTRICT REVENUES. (a) The district by
4-22 rule, resolution, or order may establish, amend, pledge, encumber,
4-23 expend the proceeds from, and assess to any person production fees
4-24 based on the amount of groundwater authorized by permit to be
4-25 withdrawn from a well or on the amount of water actually withdrawn,
4-26 to enable the district to fulfill its purposes and regulatory
4-27 functions as provided by this chapter. The district may use
4-28 revenues generated by fees it assesses for any lawful purpose.

4-29 (b) Notwithstanding any provision of general law to the
4-30 contrary, a fee authorized by Subsection (a) may not exceed:

4-31 (1) \$1 per acre-foot annually for groundwater used for
4-32 agricultural purposes; or

4-33 (2) 30 cents per thousand gallons annually for
4-34 groundwater used for nonagricultural purposes.

4-35 (c) Notwithstanding any provision of general law or this
4-36 chapter to the contrary, if any, the district may assess a
4-37 production fee under this section for groundwater produced from a
4-38 well or class of wells exempt from permitting under Section 36.117,
4-39 Water Code. A production fee assessed by the district under this
4-40 subsection must be based on the amount of groundwater actually
4-41 withdrawn from the well and may not exceed the amount established by
4-42 the district for permitted uses under Subsection (b)(2).

4-43 (d) Notwithstanding Section 36.1071(f), Water Code, the
4-44 district by rule, resolution, or order before the adoption of its
4-45 management plan may:

4-46 (1) establish, assess, and enforce the collection of
4-47 production fees under this section; and

4-48 (2) establish and enforce metering and reporting
4-49 requirements.

4-50 (e) The district by rule may establish a temporary or
4-51 permanent discounted fee rate for persons who prepay production
4-52 fees to the district under this section on or before the dates
4-53 established by district rule.

4-54 SECTION 2. The legislature finds that the sovereign
4-55 immunity of a government or governmental subdivision or agency to
4-56 suit and from liability is already waived for the purpose of the
4-57 implementation and enforcement by a groundwater conservation
4-58 district of Chapter 36, Water Code, notwithstanding the changes in
4-59 law made by this Act.

4-60 SECTION 3. (a) The legal notice of the intention to
4-61 introduce this Act, setting forth the general substance of this
4-62 Act, has been published as provided by law, and the notice and a
4-63 copy of this Act have been furnished to all persons, agencies,
4-64 officials, or entities to which they are required to be furnished
4-65 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4-66 Government Code.

4-67 (b) The governor has submitted the notice and Act to the
4-68 Texas Commission on Environmental Quality.

4-69 (c) The Texas Commission on Environmental Quality has filed

5-1 its recommendations relating to this Act with the governor,
5-2 lieutenant governor, and speaker of the house of representatives
5-3 within the required time.

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

5-8 SECTION 4. This Act takes effect immediately if it receives
5-9 a vote of two-thirds of all the members elected to each house, as
5-10 provided by Section 39, Article III, Texas Constitution. If this
5-11 Act does not receive the vote necessary for immediate effect, this
5-12 Act takes effect September 1, 2007.

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