

By: Hinojosa

S.B. No. 2007

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 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 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, 2010:

(1) the district is dissolved on September 1, 2010,

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, 2011.

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 described in Section 2 of the Act
13 creating this chapter form a closure. A mistake made in describing
14 the district's boundaries in the legislative process does not
15 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. TEMPORARY DIRECTORS. (a) The temporary
8 board of directors consists of:

9 (1) Lavoyger Durham, representing commissioners
10 precinct 1;

11 (2) Felix Saenz, Jr., representing commissioners
12 precinct 2;

13 (3) Mauro Garcia, representing commissioners precinct
14 3;

15 (4) Larry Boykin, representing commissioners precinct
16 4;

17 (5) David Grall, representing the district at large,
18 place 1; and

19 (6) Jose U. Perez, representing the district at large,
20 place 2.

21 (b) If there is a vacancy on the temporary board of
22 directors of the district, the remaining temporary directors shall
23 appoint a person to fill the vacancy in a manner that meets the
24 representational requirements of this section.

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

26 (1) the time the temporary directors become initial
27 directors under Section 8805.024; or

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

3 Sec. 8805.022. ORGANIZATIONAL MEETING OF TEMPORARY
4 DIRECTORS. As soon as practicable after all the temporary
5 directors have qualified under Section 36.055, Water Code, a
6 majority of the temporary directors shall convene the
7 organizational meeting of the district at a location within the
8 district agreeable to a majority of the temporary directors. If an
9 agreement on location cannot be reached, the organizational meeting
10 shall be at the Brooks County Courthouse.

11 Sec. 8805.023. CONFIRMATION ELECTION. (a) The temporary
12 directors shall hold an election to confirm the creation of the
13 district and the imposition of a maintenance tax.

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

16 (c) Except as provided by this section, an election under
17 this section must be conducted as provided by Sections 36.017(b),
18 (c), and (e)-(i), Water Code, and the Election Code.

19 (d) The ballot for the election must be printed to provide
20 for voting for or against the proposition: "The creation of the
21 Heart's Delight Groundwater Conservation District and the levy of a
22 maintenance tax at a rate not to exceed 3 cents for each \$100 of
23 assessed valuation."

24 (e) If a majority of the votes cast at the election are not
25 in favor of the creation of the district, the temporary directors
26 may call a subsequent confirmation election.

27 (f) The district may not impose a maintenance tax unless the

1 tax is confirmed under this section.

2 Sec. 8805.024. INITIAL DIRECTORS. (a) If creation of the
3 district is confirmed at an election held under Section 8805.023,
4 the temporary directors of the district become the initial
5 directors of the district and serve on the board of directors until
6 permanent directors are elected under Section 8805.025.

7 (b) The initial directors for commissioner precincts 2 and 4
8 and the initial place 1 at-large director serve terms expiring June
9 1 following the first regularly scheduled election of directors
10 under Section 8805.025, and the initial directors for commissioners
11 precincts 1 and 3 and the initial place 2 at-large director serve
12 terms expiring June 1 following the second regularly scheduled
13 election of directors.

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

22 Sec. 8805.026. EXPIRATION OF SUBCHAPTER. This subchapter
23 expires September 1, 2010.

24 [Sections 8805.027-8805.030 reserved for expansion]

25 SUBCHAPTER A-2. EXPANSION OF DISTRICT TERRITORY

26 Sec. 8805.031. EXPANSION OF DISTRICT TERRITORY REQUIRED.

27 (a) Not later than September 1, 2011, the boundaries of the

1 district shall be expanded to include at least 50 percent of the
2 surface land area of at least one county adjacent to Brooks County.

3 (b) The addition of territory under this section may be
4 accomplished by annexation in accordance with Chapter 36, Water
5 Code, or by legislative enactment.

6 Sec. 8805.032. COMMISSION VERIFICATION; DISSOLUTION OF
7 DISTRICT. (a) In this section, "commission" means the Texas
8 Commission on Environmental Quality or its successor agency.

9 (b) After September 1, 2011, the commission shall determine
10 whether the requirements of Section 8805.031(a) have been
11 satisfied. If the commission determines that the requirements of
12 that section have not been satisfied, the commission shall dissolve
13 the district and distribute any remaining assets in accordance with
14 the procedures provided by Sections 36.304-36.310, Water Code,
15 regardless of whether the district satisfies the requirements for
16 dissolution under Section 36.304(a) of that code.

17 Sec. 8805.033. EXPIRATION OF SUBCHAPTER. This subchapter
18 expires September 1, 2013.

19 [Sections 8805.034-8805.050 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 six directors.

23 (b) Except as otherwise provided by this chapter, directors
24 serve staggered four-year terms, with 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) Two directors 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 a director at large, a person must
9 be 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) the number of the at-large position that the
17 person seeks.

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

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

8 Sec. 8805.055. FEES OF OFFICE; REIMBURSEMENT.

9 (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a
10 director 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 Sec. 8805.103. EXEMPTIONS. (a) In this section:

26 (1) "Domestic use" means the use of groundwater by an
27 individual or a household to support domestic activities, including

1 the use of groundwater for drinking, washing, or culinary purposes;
2 for irrigating a lawn or a family garden or orchard; for watering
3 domestic animals; and for water recreation, including aquatic and
4 wildlife enjoyment. Domestic use does not include the use of water
5 to support an activity for which consideration is given or received
6 or for which the product of the activity is sold. Domestic use does
7 not include use by or for a public water system.

8 (2) "Livestock use" means the use of groundwater for
9 the open-range watering of livestock, exotic livestock, game
10 animals, or fur-bearing animals. For purposes of this definition,
11 the terms "livestock" and "exotic livestock" have the meanings
12 assigned by Sections 1.003 and 142.001, Agriculture Code,
13 respectively, and the terms "game animal" and "fur-bearing animal"
14 have the meanings assigned by Sections 63.001 and 71.001, Parks and
15 Wildlife Code, respectively. Livestock use does not include use by
16 or for a public water system.

17 (b) Section 36.117, Water Code, applies to the district.

18 (c) The district may not require a permit for or otherwise
19 regulate a production or injection well associated with uranium
20 mining.

21 (d) In addition to the exemptions provided by Section
22 36.117, Water Code, the district shall not require a permit for or
23 otherwise regulate a well used solely to provide water for domestic
24 use or livestock use.

25 Sec. 8805.104. IMPACT OF TRANSFER. (a) If the district
26 finds that a transfer of groundwater out of the district negatively
27 impacts any of the considerations described by Section 36.122(f),

1 Water Code, the district may impose additional requirements or
2 limitations on the permit that are designed to minimize those
3 impacts.

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

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

9 [Sections 8805.105-8805.150 reserved for expansion]

10 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

11 Sec. 8805.151. REVENUE. To pay the maintenance and
12 operating costs of the district and to pay any bonds or notes issued
13 by the district, the district may:

14 (1) impose an ad valorem tax through the levy of the
15 maintenance tax authorized by Section 8805.023 at a rate not to
16 exceed 3 cents on each \$100 of assessed valuation of taxable
17 property; or

18 (2) solicit and accept grants from any private or
19 public source.

20 SECTION 2. The initial boundaries of the Heart's Delight
21 Groundwater Conservation District are coextensive with the
22 boundaries of Brooks County, Texas, and include all real property
23 in Brooks County save and except all of those portions of Brooks
24 County that, as of the effective date of this Act, are located
25 within the Kenedy County Groundwater Conservation District.

26 SECTION 3. The initial board of directors of the Heart's
27 Delight Groundwater Conservation District shall hold the first

1 regularly scheduled election of directors of the Heart's Delight
2 Groundwater Conservation District under Section 8805.025, Special
3 District Local Laws Code, as added by this Act, on the uniform
4 election date in May in the first even-numbered year following the
5 year in which the district's creation is confirmed under Section
6 8805.023, Special District Local Laws Code, as added by this Act.

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

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

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

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

24 SECTION 5. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2007.