

SENATE AMENDMENTS

2nd Printing

By: Guillen

H.B. No. 2072

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of temporary directors and the confirmation election of the Starr County Groundwater Conservation District.

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

SECTION 1. Subchapter A, Chapter 8803, Special District Local Laws Code, is amended by adding Section 8803.004 to read as follows:

Sec. 8803.004. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held before September 1, 2009:

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

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Starr County; and

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

(2) this chapter expires September 1, 2012.

SECTION 2. Chapter 8803, Special District Local Laws Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8803.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a)

1 Not later than the 45th day after the effective date of this
2 subchapter, five temporary directors shall be appointed as follows:

3 (1) the Starr County Commissioners Court shall appoint
4 four temporary directors, with one of the temporary directors
5 appointed from each of the four commissioners precincts in the
6 county to represent the precinct in which the temporary director
7 resides; and

8 (2) the county judge of Starr County shall appoint one
9 temporary director who resides in the district to represent the
10 district at large.

11 (b) If there is a vacancy on the temporary board of
12 directors of the district, the remaining temporary directors shall
13 appoint a person to fill the vacancy in a manner that meets the
14 representational requirements of this section.

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

16 (1) the time the temporary directors become initial
17 directors as provided by Section 8803.024; or

18 (2) the date this chapter expires under Section
19 8803.004.

20 Sec. 8803.022. ORGANIZATIONAL MEETING OF TEMPORARY
21 DIRECTORS. As soon as practicable after all the temporary
22 directors have qualified under Section 36.055, Water Code, a
23 majority of the temporary directors shall convene the
24 organizational meeting of the district at a location within the
25 district agreeable to a majority of the directors. If an agreement
26 on location cannot be reached, the organizational meeting shall be
27 at the Starr County Courthouse.

1 Sec. 8803.023. CONFIRMATION ELECTION. (a) The temporary
2 directors shall hold an election to confirm the creation of the
3 district.

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

6 (c) Except as provided by this section, a confirmation
7 election must be conducted as provided by Sections 36.017(b)-(i),
8 Water Code, and the Election Code. The provision of Section
9 36.017(d), Water Code, relating to the election of permanent
10 directors does not apply to a confirmation election under this
11 section.

12 (d) Starr County may pay for any portion of the costs
13 incident to the district's confirmation election.

14 Sec. 8803.024. INITIAL DIRECTORS. (a) If creation of the
15 district is confirmed at an election held under Section 8803.023,
16 the temporary directors of the district become the initial
17 directors of the district and serve on the board of directors until
18 permanent directors are elected under Section 8803.025.

19 (b) The initial directors for county precincts 2 and 3 serve
20 a term expiring June 1 following the first regularly scheduled
21 election of directors under Section 8803.025, and the initial
22 directors for county precincts 1 and 4 serve a term expiring June 1
23 following the second regularly scheduled election of directors.
24 The at-large director shall serve a term expiring June 1 following
25 the second regularly scheduled election of directors.

26 Sec. 8803.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
27 the uniform election date prescribed by Section 41.001, Election

1 Code, in May of the first even-numbered year after the year in which
2 the district is authorized to be created at a confirmation
3 election, an election shall be held in the district for the election
4 of two directors to replace the initial directors who, under
5 Section 8803.024(b), serve a term expiring June 1 following that
6 election.

7 Sec. 8803.026. EXPIRATION OF SUBCHAPTER. This subchapter
8 expires September 1, 2012.

9 SECTION 3. Sections 5, 6, 7, 8, 9, and 11, Chapter 451, Acts
10 of the 79th Legislature, Regular Session, 2005, are repealed.

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

ADOPTED

MAY 22 2007

FLOOR AMENDMENT NO. |

Antony Spaw
Secretary of the Senate

BY:

J. J. King

1 Amend H.B. No. 2072 (Senate Committee Printing) as follows:

2 (1) Between existing SECTIONS 2 and 3 of the bill (page 2
3 between lines 28 and 29), insert the following SECTION and renumber
4 existing SECTION 3 as SECTION 4:

5 SECTION 3. Subtitle H, Title 6, Special District Local Laws
6 Code, is amended by adding Chapter 8805 to read as follows:

7 CHAPTER 8805. LA PALOMA GROUNDWATER

8 CONSERVATION DISTRICT

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 8805.001. DEFINITIONS. In this chapter:

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

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

14 (3) "District" means La Paloma Groundwater
15 Conservation District.

16 Sec. 8805.002. NATURE OF DISTRICT. The district is a
17 groundwater conservation district in Brooks County created under
18 and essential to accomplish the purposes of Section 59, Article
19 XVI, Texas Constitution.

20 Sec. 8805.003. CONFIRMATION ELECTION REQUIRED. If the
21 creation of the district is not confirmed at a confirmation
22 election held on or before September 1, 2010:

23 (1) the district is dissolved on September 1, 2010,
24 except that:

25 (A) any debts incurred shall be paid;

26 (B) any assets that remain after the payment of
27 debts shall be transferred to Brooks County; and

28 (C) the organization of the district shall be
29 maintained until all debts are paid and remaining assets are

1 transferred; and

2 (2) this chapter expires September 1, 2011.

3 Sec. 8805.004. INITIAL DISTRICT TERRITORY. (a) The
4 district is initially composed of the territory described by
5 Section 5 of the Act creating this chapter.

6 (b) The boundaries described in Section 5 of the Act
7 creating this chapter form a closure. A mistake made in describing
8 the district's boundaries in the legislative process does not
9 affect the district's:

10 (1) organization, existence, or validity;

11 (2) right to issue any type of bond for the purposes
12 for which the district is created or to pay the principal of and
13 interest on a bond;

14 (3) right to impose or collect an assessment or tax; or

15 (4) legality or operation.

16 Sec. 8805.005. CONSTRUCTION OF CHAPTER. This chapter shall
17 be liberally construed to achieve the legislative intent and
18 purposes of Chapter 36, Water Code. A power granted by Chapter 36,
19 Water Code, or this chapter shall be broadly interpreted to achieve
20 that intent and those purposes.

21 Sec. 8805.006. APPLICABILITY OF OTHER GROUNDWATER
22 CONSERVATION DISTRICT LAW. (a) Except as otherwise provided by
23 this chapter, Chapter 36, Water Code, applies to the district.

24 (b) Section 36.121, Water Code, does not apply to the
25 district.

26 [Sections 8805.007-8805.020 reserved for expansion]

27 SUBCHAPTER A-1. TEMPORARY PROVISIONS

28 Sec. 8805.021. TEMPORARY DIRECTORS. (a) The temporary
29 board of directors consists of:

30 (1) Lavoyger Durham, representing commissioners
31 precinct 1;

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

3 (3) Mauro Garcia, representing commissioners precinct
4 3;

5 (4) Larry Boykin, representing commissioners precinct
6 4;

7 (5) David Grall, representing the district at large,
8 place 1; and

9 (6) Jose U. Perez, representing the district at large,
10 place 2.

11 (b) If there is a vacancy on the temporary board of
12 directors of the district, the remaining temporary directors shall
13 appoint a person to fill the vacancy in a manner that meets the
14 representational requirements of this section.

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

16 (1) the time the temporary directors become initial
17 directors under Section 8805.024; or

18 (2) the date this chapter expires under Section
19 8805.003.

20 Sec. 8805.022. ORGANIZATIONAL MEETING OF TEMPORARY
21 DIRECTORS. As soon as practicable after all the temporary
22 directors have qualified under Section 36.055, Water Code, a
23 majority of the temporary directors shall convene the
24 organizational meeting of the district at a location within the
25 district agreeable to a majority of the temporary directors. If an
26 agreement on location cannot be reached, the organizational meeting
27 shall be at the Brooks County Courthouse.

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

31 (b) Section 41.001(a), Election Code, does not apply to an

1 election held as provided by this section.

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

5 (d) The ballot for the election must be printed to provide
6 for voting for or against the proposition: "The creation of La
7 Paloma Groundwater Conservation District and the levy of a
8 maintenance tax at a rate not to exceed 3 cents for each \$100 of
9 assessed valuation."

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

13 (f) The district may not impose a maintenance tax unless the
14 tax is confirmed under this section.

15 Sec. 8805.024. INITIAL DIRECTORS. (a) If creation of the
16 district is confirmed at an election held under Section 8805.023,
17 the temporary directors of the district become the initial
18 directors of the district and serve on the board of directors until
19 permanent directors are elected under Section 8805.025.

20 (b) The initial directors for commissioner precincts 2 and 4
21 and the initial place 1 at-large director serve terms expiring June
22 1 following the first regularly scheduled election of directors
23 under Section 8805.025, and the initial directors for commissioners
24 precincts 1 and 3 and the initial place 2 at-large director serve
25 terms expiring June 1 following the second regularly scheduled
26 election of directors.

27 Sec. 8805.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
28 the uniform election date prescribed by Section 41.001, Election
29 Code, in May of the first even-numbered year after the year in which
30 the district is authorized to be created at a confirmation
31 election, an election shall be held in the district for the election

1 of three directors to replace the initial directors who, under
2 Section 8805.024(b), serve a term expiring June 1 following that
3 election.

4 Sec. 8805.026. EXPIRATION OF SUBCHAPTER. This subchapter
5 expires September 1, 2010.

6 [Sections 8805.027-8805.030 reserved for expansion]

7 SUBCHAPTER A-2. EXPANSION OF DISTRICT TERRITORY

8 Sec. 8805.031. EXPANSION OF DISTRICT TERRITORY REQUIRED.

9 (a) Not later than September 1, 2011, the boundaries of the district
10 shall be expanded to include at least 50 percent of the surface land
11 area of at least one county adjacent to Brooks County.

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

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

18 (b) After September 1, 2011, the commission shall determine
19 whether the requirements of Section 8805.031(a) have been
20 satisfied. If the commission determines that the requirements of
21 that section have not been satisfied, the commission shall dissolve
22 the district and distribute any remaining assets in accordance with
23 the procedures provided by Sections 36.304-36.310, Water Code,
24 regardless of whether the district satisfies the requirements for
25 dissolution under Section 36.304(a) of that code.

26 Sec. 8805.033. EXPIRATION OF SUBCHAPTER. This subchapter
27 expires September 1, 2013.

28 [Sections 8805.034-8805.050 reserved for expansion]

29 SUBCHAPTER B. BOARD OF DIRECTORS

30 Sec. 8805.051. DIRECTORS; TERMS. (a) The district is
31 governed by a board of six directors.

1 (b) Except as otherwise provided by this chapter, directors
2 serve staggered four-year terms, with three directors' terms
3 expiring June 1 of each even-numbered year.

4 (c) A director may serve consecutive terms.

5 Sec. 8805.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
6 PRECINCTS. (a) The directors of the district shall be elected
7 according to the commissioners precinct method as provided by this
8 section.

9 (b) Two directors shall be elected by the voters of the
10 entire district, and one director shall be elected from each county
11 commissioners precinct by the voters of that precinct.

12 (c) Except as provided by Subsection (e), to be eligible to
13 be a candidate for or to serve as a director at large, a person must
14 be a registered voter in the district. To be a candidate for or to
15 serve as director from a county commissioners precinct, a person
16 must be a registered voter of that precinct.

17 (d) A person shall indicate on the application for a place
18 on the ballot:

19 (1) the precinct that the person seeks to represent;

20 or

21 (2) the number of the at-large position that the
22 person seeks.

23 (e) When the boundaries of the county commissioners
24 precincts are redrawn after each federal decennial census to
25 reflect population changes, a director in office on the effective
26 date of the change, or a director elected or appointed before the
27 effective date of the change whose term of office begins on or after
28 the effective date of the change, shall serve in the precinct to
29 which elected or appointed even though the change in boundaries
30 places the person's residence outside the precinct for which the
31 person was elected or appointed.

1 Sec. 8805.053. ELECTION DATE. The district shall hold an
2 election to elect three directors on the uniform election date
3 prescribed by Section 41.001, Election Code, in May of each
4 even-numbered year.

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

9 Sec. 8805.055. FEES OF OFFICE; REIMBURSEMENT. (a)
10 Notwithstanding Sections 36.060(a) and (d), Water Code, a director
11 may not receive fees of office for performing the duties of
12 director.

13 (b) A director is entitled to receive reimbursement of
14 actual expenses reasonably and necessarily incurred while engaging
15 in activities on behalf of the district in accordance with Sections
16 36.060(b) and (c), Water Code.

17 [Sections 8805.056-8805.100 reserved for expansion]

18 SUBCHAPTER C. POWERS AND DUTIES

19 Sec. 8805.101. GENERAL POWERS. Except as otherwise
20 provided by this chapter, the district has all of the rights,
21 powers, privileges, functions, and duties provided by the general
22 law of this state applicable to groundwater conservation districts
23 created under Section 59, Article XVI, Texas Constitution.

24 Sec. 8805.102. CONTRACTS. The district may enter into a
25 contract with any person for any purpose authorized by law.

26 Sec. 8805.103. EXEMPTIONS. (a) In this section:

27 (1) "Domestic use" means the use of groundwater by an
28 individual or a household to support domestic activities, including
29 the use of groundwater for drinking, washing, or culinary purposes;
30 for irrigating a lawn or a family garden or orchard; for watering
31 domestic animals; and for water recreation, including aquatic and

1 wildlife enjoyment. Domestic use does not include the use of water
2 to support an activity for which consideration is given or received
3 or for which the product of the activity is sold. Domestic use does
4 not include use by or for a public water system.

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

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

15 (c) In addition to the exemptions provided by Section
16 36.117, Water Code, the district may not require a permit for or
17 otherwise regulate a well used solely to provide water for domestic
18 use or livestock use.

19 Sec. 8805.104. IMPACT OF TRANSFER. (a) If the district
20 finds that a transfer of groundwater out of the district negatively
21 impacts any of the considerations described by Section 36.122(f),
22 Water Code, the district may impose additional requirements or
23 limitations on the permit that are designed to minimize those
24 impacts.

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

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

30 [Sections 8805.105-8805.150 reserved for expansion]

31 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

1 Sec. 8805.151. REVENUE. To pay the maintenance and
2 operating costs of the district and to pay any bonds or notes issued
3 by the district, the district may:

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

8 (2) solicit and accept grants from any private or
9 public source.

10 (2) Between SECTIONS 3 and 4 of the bill (page 2, between
11 lines 30 and 31) insert the following SECTIONS and renumber
12 existing SECTION 4 as SECTION 8:

13 SECTION 5. The initial boundaries of La Paloma Groundwater
14 Conservation District as created by this Act are coextensive with
15 the boundaries of Brooks County, Texas, and include all real
16 property in Brooks County save and except all of those portions of
17 Brooks County that, as of the effective date of this Act, are
18 located within the Kenedy County Groundwater Conservation
19 District.

20 SECTION 6. The initial board of directors of La Paloma
21 Groundwater Conservation District shall hold the first regularly
22 scheduled election of directors of La Paloma Groundwater
23 Conservation District under Section 8805.025, Special District
24 Local Laws Code, as added by this Act, on the uniform election date
25 in May in the first even-numbered year following the year in which
26 the district's creation is confirmed under Section 8805.023,
27 Special District Local Laws Code, as added by this Act.

28 SECTION 7. (a) The legal notice of the intention to
29 introduce the sections of this Act that create La Paloma
30 Groundwater Conservation District, setting forth the general
31 substance of those sections, has been published as provided by law,

1 and the notice and a copy of those sections have been furnished to
2 all persons, agencies, officials, or entities to which they are
3 required to be furnished under Section 59, Article XVI, Texas
4 Constitution, and Chapter 313, Government Code.

5 (b) The governor has submitted the notice and the sections
6 of this Act described by Subsection (a) of this section to the Texas
7 Commission on Environmental Quality.

8 (c) The Texas Commission on Environmental Quality has filed
9 its recommendations relating to the creation of La Paloma
10 Groundwater Conservation District by this Act with the governor,
11 lieutenant governor, and speaker of the house of representatives
12 within the required time.

13 (d) All requirements of the constitution and laws of this
14 state and the rules and procedures of the legislature with respect
15 to the notice, introduction, and passage of the sections of this Act
16 related to the creation of La Paloma Groundwater Conservation
17 District are fulfilled and accomplished.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2072 by Guillen (Relating to the appointment of temporary directors and the confirmation election of the Starr County Groundwater Conservation District.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, WK, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 19, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2072 by Guillen (Relating to the appointment of temporary directors and the confirmation election of the Starr County Groundwater Conservation District.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

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