

By: Hegar

S.B. No. 12

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Calhoun County Groundwater Conservation District.

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 8860 to read as follows:

CHAPTER 8860. CALHOUN COUNTY GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8860.001. 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 Calhoun County Groundwater Conservation District.

Sec. 8860.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Calhoun County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8860.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8860.022 before February 28, 2015:

(1) the district is dissolved February 28, 2015, except that:

1 (A) any debts incurred shall be paid;

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

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

7 (2) this chapter expires November 1, 2016.

8 Sec. 8860.004. LEGISLATIVE FINDINGS. (a) The organization
9 of the district is feasible and practicable.

10 (b) All land in and residents of the district will benefit
11 from the creation of the district.

12 (c) The creation of the district is a public necessity and
13 will provide a public benefit.

14 Sec. 8860.005. INITIAL DISTRICT TERRITORY. The initial
15 boundaries of the district are coextensive with the boundaries of
16 Calhoun County.

17 Sec. 8860.006. DISTRICT TERRITORY REQUIREMENTS;
18 DISSOLUTION OF DISTRICT. (a) On November 1, 2015, the district
19 boundaries must include at least one county adjacent to Calhoun
20 County.

21 (b) As soon as practicable after November 1, 2015, the Texas
22 Commission on Environmental Quality shall determine whether the
23 district complies with Subsection (a).

24 (c) If the commission determines that the district does not
25 comply with Subsection (a), the commission shall dissolve the
26 district in accordance with Sections 36.304, 36.305, 36.307,
27 36.308, 36.309, and 36.310, Water Code, regardless of whether the

1 district meets the criteria for dissolution under Section
2 36.304(a), Water Code.

3 (d) This section expires November 1, 2016.

4 Sec. 8860.007. CONFLICTS OF LAW. This chapter prevails
5 over any provision of general law, including a provision of Chapter
6 36, Water Code, that is in conflict or is inconsistent with this
7 chapter.

8 [Sections 8860.008-8860.020 reserved for expansion]

9 SUBCHAPTER A-1. TEMPORARY PROVISIONS

10 Sec. 8860.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not
11 later than November 11, 2009, the Calhoun County Commissioners
12 Court shall appoint five temporary directors as follows:

13 (1) one temporary director from each of the four
14 commissioners precincts in the county to represent the precincts in
15 which the temporary directors reside; and

16 (2) one temporary director who resides in the district
17 to represent the district at large.

18 (b) To be qualified to serve as a temporary director, a
19 person must be a resident of Calhoun County who is at least 18 years
20 of age.

21 (c) If a temporary director fails to qualify for office or a
22 vacancy occurs on the temporary board, the remaining temporary
23 directors shall appoint a qualified person to fill the vacancy. If
24 at any time there are fewer than three qualified temporary
25 directors, the Calhoun County Commissioners Court shall appoint the
26 necessary number of persons to fill all vacancies on the board.

27 (d) The temporary directors shall select from among

1 themselves a president, a vice president, and a secretary.

2 (e) Temporary directors serve until the earlier of:

3 (1) the date the creation of the district is confirmed
4 at an election held under Section 8860.022; or

5 (2) November 1, 2013.

6 (f) If the creation of the district has not been confirmed
7 under Section 8860.022 and the terms of the temporary directors
8 have expired, successor temporary directors shall be appointed in
9 the manner provided by Subsection (a) to serve terms that expire on
10 the earliest of:

11 (1) the date the district's creation is confirmed at an
12 election held under Section 8860.022;

13 (2) the date the requirements of Section 8860.003(1)
14 are fulfilled; or

15 (3) November 1, 2016.

16 Sec. 8860.022. CONFIRMATION ELECTION. (a) Not later than
17 December 1, 2009, the temporary directors shall meet and shall
18 order an election to be held in the district not later than November
19 1, 2010, to confirm the creation of the district.

20 (b) The ballot for the election shall be printed to provide
21 for voting for or against the proposition: "The creation of the
22 Calhoun County Groundwater Conservation District and the
23 imposition of a fee to pay the maintenance and operating costs of
24 the district."

25 (c) The temporary board may include other propositions on
26 the ballot that the board considers necessary.

27 (d) Section 41.001(a), Election Code, does not apply to an

1 election held under this section.

2 (e) If a majority of the votes cast at the election are in
3 favor of confirming the district's creation, the temporary
4 directors shall declare the district created. If a majority of the
5 votes cast are not in favor of confirming the district's creation,
6 the district's creation is not confirmed. The temporary directors
7 shall file a copy of the election results with the Texas Commission
8 on Environmental Quality.

9 (f) If the district's creation is not confirmed at an
10 election held under this section, the temporary directors may order
11 one or more subsequent elections to be held to confirm the creation
12 of the district not earlier than the first anniversary of the
13 preceding confirmation election. If the district's creation is not
14 confirmed at an election held under this section on or before
15 February 28, 2015, the district is dissolved in accordance with
16 Section 8860.003.

17 Sec. 8860.023. INITIAL DIRECTORS. (a) If the creation of
18 the district is confirmed at an election held under Section
19 8860.022, the temporary directors take office as initial directors
20 of the district, and:

21 (1) the directors for precincts 1 and 3 serve terms
22 that expire on the date of the first regular meeting of the board
23 after the first regularly scheduled directors' election held under
24 Section 8860.024; and

25 (2) the directors for precincts 2 and 4 and the
26 director serving at large serve terms that expire on the date of the
27 first regular meeting of the board after the second regularly

1 scheduled directors' election.

2 (b) If for any reason a director elected at the first or
3 second regularly scheduled election of directors is not qualified
4 to take office at the first regular meeting of the board following
5 the elected director's election, the initial director for that
6 position shall continue to serve until a successor qualifies.

7 Sec. 8860.024. FIRST ELECTION OF PERMANENT DIRECTORS. On
8 the uniform election date prescribed by Section 41.001, Election
9 Code, in November of the first even-numbered year after the year in
10 which the district is authorized to be created at a confirmation
11 election, an election shall be held in the district for the election
12 of two directors for precincts 1 and 3.

13 Sec. 8860.025. EXPIRATION OF SUBCHAPTER. This subchapter
14 expires February 1, 2017.

15 [Sections 8860.026-8860.050 reserved for expansion]

16 SUBCHAPTER B. BOARD OF DIRECTORS

17 Sec. 8860.051. DIRECTORS; TERMS. (a) The district is
18 governed by a board of five elected directors.

19 (b) Except for the temporary and initial directors,
20 directors serve staggered terms of four years, with two or three
21 directors' terms expiring on the date of the first regular meeting
22 of the board after an election of directors under Section 8860.053.

23 (c) If a vacancy occurs in the office of director, the board
24 shall appoint a person to fill the vacancy until the next regularly
25 scheduled election of directors. If the position is not scheduled
26 to be filled at the election, the person elected shall serve only
27 for the remainder of the unexpired term.

1 (d) Notwithstanding Section 36.060, Water Code, a director
2 is not entitled to receive compensation for performing the duties
3 of a director.

4 (e) The board may authorize a director to receive
5 reimbursement for the director's reasonable expenses incurred
6 while engaging in activities on behalf of the district.

7 Sec. 8860.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
8 PRECINCTS. (a) The directors of the district shall be elected
9 according to the commissioners precinct method as provided by this
10 section.

11 (b) One director shall be elected by the voters of the
12 entire district, and one director shall be elected from each county
13 commissioners precinct by the voters of that precinct.

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

19 (d) A person shall indicate on the application for a place
20 on the ballot:

21 (1) the precinct that the person seeks to represent;
22 or

23 (2) that the person seeks to represent the district at
24 large.

25 (e) When the boundaries of the county commissioners
26 precincts are redrawn after each federal decennial census to
27 reflect population changes, a director in office on the effective

1 date of the change, or a director elected or appointed before the
2 effective date of the change whose term of office begins on or after
3 the effective date of the change, shall serve in the precinct to
4 which elected or appointed even though the change in boundaries
5 places the person's residence outside the precinct for which the
6 person was elected or appointed.

7 Sec. 8860.053. ELECTION DATE. The district shall hold an
8 election to elect the appropriate number of directors on the
9 uniform election date prescribed by Section 41.001, Election Code,
10 in November of each even-numbered year.

11 [Sections 8860.054-8860.100 reserved for expansion]

12 SUBCHAPTER C. POWERS AND DUTIES

13 Sec. 8860.101. GENERAL POWERS AND DUTIES. Except as
14 otherwise provided by this chapter, the district has all of the
15 rights, powers, privileges, functions, and duties provided by the
16 general law of this state, including Chapter 36, Water Code,
17 applicable to groundwater conservation districts created under
18 Section 59, Article XVI, Texas Constitution.

19 Sec. 8860.102. CERTAIN PERMIT DENIALS PROHIBITED. The
20 district may not deny the owner of a tract of land, or the owner's
21 lessee, who does not have a well equipped to produce more than
22 25,000 gallons each day on the tract, either a permit to drill a
23 well on the tract or the privilege to produce groundwater from the
24 tract, subject to district rules.

25 Sec. 8860.103. MITIGATION ASSISTANCE. In addition to the
26 authority granted by Chapter 36, Water Code, the district may
27 assist in the mediation between landowners regarding the loss of

1 existing groundwater supply of exempt domestic and livestock users
2 due to the groundwater pumping of others.

3 Sec. 8860.104. PROHIBITION ON DISTRICT USE OF EMINENT
4 DOMAIN POWER. The district may not exercise the power of eminent
5 domain.

6 [Sections 8860.105-8860.150 reserved for expansion]

7 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

8 Sec. 8860.151. FEES. (a) The board by rule may impose a
9 reasonable fee on each well for which a permit is issued by the
10 district and that is not exempt from regulation by the district.
11 The fee may be based on:

- 12 (1) the size of column pipe used by the well; or
13 (2) the actual, authorized, or anticipated amount of
14 water to be withdrawn from the well.

15 (b) In addition to a fee imposed under Subsection (a), the
16 district may impose a reasonable fee or surcharge for an export fee
17 using one of the following methods:

- 18 (1) a fee negotiated between the district and the
19 transporter; or
20 (2) a combined production and export fee.

21 (c) Fees authorized by this section may be assessed annually
22 and may be used to fund the cost of district operations.

23 Sec. 8860.152. TAXES PROHIBITED. The district may not
24 impose a tax and does not have the authority granted by Sections
25 36.020 and 36.201-36.204, Water Code, relating to taxes.

26 SECTION 2. (a) The legal notice of the intention to
27 introduce this Act, setting forth the general substance of this

1 Act, has been published as provided by law, and the notice and a
2 copy of this Act have been furnished to all persons, agencies,
3 officials, or entities to which they are required to be furnished
4 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5 Government Code.

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

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

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

16 SECTION 3. This Act takes effect November 1, 2009.