

By: Gallego

H.B. No. 4743

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Terrell County Groundwater Conservation District; providing authority to impose a tax and 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 8854 to read as follows:

CHAPTER 8854. TERRELL COUNTY GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8854.001. 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 Terrell County Groundwater Conservation District.

Sec. 8854.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Terrell County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8854.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8854.023 before December 31, 2010:

(1) the district is dissolved December 31, 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 Terrell 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, 2014.

9 Sec. 8854.004. INITIAL DISTRICT TERRITORY. The initial  
10 boundaries of the district are coextensive with the boundaries of  
11 Terrell County, Texas.

12 Sec. 8854.005. APPLICABILITY OF OTHER GROUNDWATER  
13 CONSERVATION DISTRICT LAW. (a) Except as otherwise provided by  
14 this section or this chapter, Chapter 36, Water Code, applies to the  
15 district.

16 (b) Section 36.121, Water Code, does not apply to the  
17 district.

18 [Sections 8854.006-8854.020 reserved for expansion]

19 SUBCHAPTER A-1. TEMPORARY PROVISIONS

20 Sec. 8854.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a)  
21 Not later than the 45th day after the effective date of the Act  
22 enacting this chapter, five temporary directors shall be appointed  
23 as follows:

24 (1) the Terrell County Commissioners Court shall  
25 appoint four temporary directors, with one of the temporary  
26 directors appointed from each of the four commissioners precincts  
27 in the county to represent the precincts in which the temporary

1 directors reside; and

2 (2) the county judge of Terrell County shall appoint  
3 one temporary director who resides in the district to represent the  
4 district at large.

5 (b) Of the temporary directors, at least one director must  
6 represent rural water suppliers in the district, one must represent  
7 agricultural interests in the district, and one must represent  
8 industrial interests in the district.

9 (c) If there is a vacancy on the temporary board of  
10 directors of the district, the Terrell County Commissioners Court  
11 shall appoint a person to fill the vacancy in a manner that meets  
12 the representational requirements of this section.

13 (d) Temporary directors serve until the earlier of:

14 (1) the date initial directors are elected under  
15 Section 8854.023; or

16 (2) the fourth anniversary of the effective date of  
17 the Act creating this chapter.

18 (e) If initial directors have not been elected under Section  
19 8854.023 and the terms of the temporary directors have expired,  
20 successor temporary directors shall be appointed in the manner  
21 provided by Subsections (a) and (b) to serve terms that expire on  
22 the date this subchapter expires under Section 8854.026.

23 Sec. 8854.022. ORGANIZATIONAL MEETING OF TEMPORARY  
24 DIRECTORS. As soon as practicable after all the temporary  
25 directors have qualified under Section 36.055, Water Code, a  
26 majority of the temporary directors shall convene the  
27 organizational meeting of the district at a location within the

1 district agreeable to a majority of the directors. If an agreement  
2 on location cannot be reached, the organizational meeting shall be  
3 at the Terrell County Courthouse.

4 Sec. 8854.023. CONFIRMATION AND INITIAL DIRECTORS'  
5 ELECTION. (a) The temporary directors shall hold an election to  
6 confirm the creation of the district and to elect the initial  
7 directors of the district.

8 (b) The temporary directors shall have placed on the ballot  
9 the names of all candidates for an initial director's position who  
10 have filed an application for a place on the ballot as provided by  
11 Section 52.003, Election Code.

12 (c) The ballot must be printed to provide for voting for or  
13 against the proposition: "The creation of the Terrell County  
14 Groundwater Conservation District."

15 (d) Section 41.001(a), Election Code, does not apply to an  
16 election held under this section.

17 (e) Except as provided by this section, an election under  
18 this section must be conducted as provided by Sections  
19 36.017(b)-(i), Water Code, and the Election Code. The provision of  
20 Section 36.017(d), Water Code, relating to the election of  
21 permanent directors does not apply to an election under this  
22 section.

23 Sec. 8854.024. INITIAL DIRECTORS. (a) If creation of the  
24 district is confirmed at an election held under Section 8854.023,  
25 the directors elected shall take office as initial directors of the  
26 district and serve on the board of directors until permanent  
27 directors are elected under Section 8854.025 or 8854.053.

1       (b) The four initial directors representing the  
2 commissioners precincts shall draw lots to determine which two  
3 shall serve a term expiring June 1 following the first regularly  
4 scheduled election of directors under Section 8854.025, and which  
5 two shall serve a term expiring June 1 following the second  
6 regularly scheduled election of directors. The at-large director  
7 shall serve a term expiring June 1 following the second regularly  
8 scheduled election of directors.

9       Sec. 8854.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On  
10 the uniform election date prescribed by Section 41.001, Election  
11 Code, in May of the first even-numbered year after the year in which  
12 the district is authorized to be created at a confirmation  
13 election, an election shall be held in the district for the election  
14 of two directors to replace the initial directors who, under  
15 Section 8854.024(b), serve a term expiring June 1 following that  
16 election.

17       Sec. 8854.026. EXPIRATION OF SUBCHAPTER. This subchapter  
18 expires September 1, 2014.

19       [Sections 8854.027-8854.050 reserved for expansion]

20                   SUBCHAPTER B. BOARD OF DIRECTORS

21       Sec. 8854.051. DIRECTORS; TERMS. (a) The district is  
22 governed by a board of five directors.

23       (b) Directors serve staggered four-year terms, with two or  
24 three directors' terms expiring June 1 of each even-numbered year.

25       (c) A director may serve consecutive terms.

26       Sec. 8854.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS  
27 PRECINCTS. (a) The directors of the district shall be elected

1 according to the commissioners precinct method as provided by this  
2 section.

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

6 (c) Except as provided by Subsection (e), to be eligible to  
7 be a candidate for or to serve as director at large, a person must be  
8 a registered voter in the district. To be a candidate for or to  
9 serve as director from a county commissioners precinct, a person  
10 must be a registered voter of that precinct.

11 (d) A person shall indicate on the application for a place  
12 on the ballot:

13 (1) the precinct that the person seeks to represent;  
14 or

15 (2) that the person seeks to represent the district at  
16 large.

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

26 Sec. 8854.053. ELECTION DATE. The district shall hold an  
27 election to elect the appropriate number of directors on the

1 uniform election date prescribed by Section 41.001, Election Code,  
2 in May of each even-numbered year.

3 Sec. 8854.054. COMPENSATION. (a) Sections 36.060(a), (b),  
4 and (d), Water Code, do not apply to the district.

5 (b) A director is entitled to receive compensation of not  
6 more than \$50 a day for each day the director actually spends  
7 performing the duties of a director. The compensation may not  
8 exceed \$3,000 a year.

9 (c) The board may authorize a director to receive  
10 reimbursement for the director's reasonable expenses incurred  
11 while engaging in activities on behalf of the board.

12 [Sections 8854.055-8854.100 reserved for expansion]

13 SUBCHAPTER C. POWERS AND DUTIES

14 Sec. 8854.101. GENERAL POWERS. Except as otherwise  
15 provided by this chapter, the district has all of the rights,  
16 powers, privileges, functions, and duties provided by the general  
17 law of this state applicable to groundwater conservation districts  
18 created under Section 59, Article XVI, Texas Constitution.

19 Sec. 8854.102. PROHIBITION ON DISTRICT PURCHASE, SALE,  
20 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not  
21 purchase, sell, transport, or distribute surface water or  
22 groundwater for any purpose.

23 Sec. 8854.103. PROHIBITION ON DISTRICT USE OF EMINENT  
24 DOMAIN POWER. The district may not exercise the power of eminent  
25 domain.

26 [Sections 8854.104-8854.150 reserved for expansion]

27 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

1       Sec. 8854.151. LIMITATION ON TAXES. The district may not  
2 impose ad valorem taxes at a rate that exceeds 1.5 cents on each  
3 \$100 valuation of taxable property in the district.

4       Sec. 8854.152. FEES. (a) The board by rule may impose  
5 reasonable fees on each well:

6           (1) for which a permit is issued by the district; and

7           (2) that is not exempt from district regulation.

8       (b) A production fee may be based on:

9           (1) the size of column pipe used by the well; or

10           (2) the amount of water actually withdrawn from the  
11 well, or the amount authorized or anticipated to be withdrawn.

12       (c) The board shall base the initial production fee on the  
13 criteria listed in Subsection (b)(2). The initial production fee:

14           (1) may not exceed:

15                   (A) 25 cents per acre-foot for water used for  
16 agricultural irrigation; or

17                   (B) 4.25 cents per thousand gallons for water  
18 used for any other purpose; and

19           (2) may be increased at a cumulative rate not to exceed  
20 three percent per year.

21       (d) In addition to the production fee authorized under this  
22 section, the district may assess an export fee on groundwater from a  
23 well that is produced for transport outside the district.

24       (e) Fees authorized by this section may be:

25           (1) assessed annually;

26           (2) used to pay the cost of district operations; and

27           (3) used for any other purpose allowed under Chapter



1 36, Water Code.

2 Sec. 8854.153. LIMITATION ON INDEBTEDNESS. The district  
3 may issue bonds and notes under Subchapter F, Chapter 36, Water  
4 Code, except that the total indebtedness created by that issuance  
5 may not exceed \$500,000 at any time.

6 SECTION 2. (a) The legal notice of the intention to  
7 introduce this Act, setting forth the general substance of this  
8 Act, has been published as provided by law, and the notice and a  
9 copy of this Act have been furnished to all persons, agencies,  
10 officials, or entities to which they are required to be furnished  
11 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
12 Government Code.

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

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

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

23 SECTION 3. This Act takes effect September 1, 2009.