

By: Hunter, Taylor, Hancock, Driver

H.B. No. 4808

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 December 31, 2014:

(1) the district is dissolved December 31, 2014, 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 September 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. CONFLICTS OF LAW. This chapter prevails
18 over any provision of general law, including a provision of Chapter
19 36, Water Code, that is in conflict or is inconsistent with this
20 chapter.

21 [Sections 8860.007-8860.020 reserved for expansion]

22 SUBCHAPTER A-1. TEMPORARY PROVISIONS

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

26 (1) one temporary director from each of the four
27 commissioners precincts in the county to represent the precincts in

1 which the temporary directors reside; and

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

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

7 (c) If a temporary director fails to qualify for office or a
8 vacancy occurs on the temporary board, the remaining temporary
9 directors shall appoint a qualified person to fill the vacancy. If
10 at any time there are fewer than three qualified temporary
11 directors, the Calhoun County Commissioners Court shall appoint the
12 necessary number of persons to fill all vacancies on the board.

13 (d) The temporary directors shall select from among
14 themselves a president, a vice president, and a secretary.

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

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

18 (2) September 1, 2013.

19 (f) If the creation of the district has not been confirmed
20 under Section 8860.022 and the terms of the temporary directors
21 have expired, successor temporary directors shall be appointed in
22 the manner provided by Subsection (a) to serve terms that expire on
23 the earliest of:

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

26 (2) the date the requirements of Section 8860.003(1)
27 are fulfilled; or

1 (3) September 1, 2016.

2 Sec. 8860.022. CONFIRMATION ELECTION. (a) Not later than
3 October 1, 2009, the temporary directors shall meet and shall order
4 an election to be held in the district not later than September 1,
5 2010, to confirm the creation of the district.

6 (b) The ballot for the election shall be printed to provide
7 for voting for or against the proposition: "The creation of the
8 Calhoun County Groundwater Conservation District and the
9 imposition of a fee to pay the maintenance and operating costs of
10 the district."

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

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

15 (e) If a majority of the votes cast at the election are in
16 favor of confirming the district's creation, the temporary
17 directors shall declare the district created. If a majority of the
18 votes cast are not in favor of confirming the district's creation,
19 the district's creation is not confirmed. The temporary directors
20 shall file a copy of the election results with the Texas Commission
21 on Environmental Quality.

22 (f) If the district's creation is not confirmed at an
23 election held under this section, the temporary directors may order
24 one or more subsequent elections to be held to confirm the creation
25 of the district not earlier than the first anniversary of the
26 preceding confirmation election. If the district's creation is not
27 confirmed at an election held under this section on or before

1 December 31, 2014, the district is dissolved in accordance with
2 Section 8860.003.

3 Sec. 8860.023. INITIAL DIRECTORS. (a) If the creation of
4 the district is confirmed at an election held under Section
5 8860.022, the temporary directors take office as initial directors
6 of the district, and:

7 (1) the directors for precincts 1 and 3 serve terms
8 that expire on the date of the first regular meeting of the board
9 after the first regularly scheduled directors' election held under
10 Section 8860.024; and

11 (2) the directors for precincts 2 and 4 and the
12 director serving at large serve terms that expire on the date of the
13 first regular meeting of the board after the second regularly
14 scheduled directors' election.

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

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

26 Sec. 8860.025. EXPIRATION OF SUBCHAPTER. This subchapter
27 expires December 1, 2016.

1 [Sections 8860.026-8860.050 reserved for expansion]

2 SUBCHAPTER B. BOARD OF DIRECTORS

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

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

9 (c) If a vacancy occurs in the office of director, the board
10 shall appoint a person to fill the vacancy until the next regularly
11 scheduled election of directors. If the position is not scheduled
12 to be filled at the election, the person elected shall serve only
13 for the remainder of the unexpired term.

14 (d) Notwithstanding Section 36.060, Water Code, a director
15 is not entitled to receive compensation for performing the duties
16 of a director.

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

20 Sec. 8860.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
21 PRECINCTS. (a) The directors of the district shall be elected
22 according to the commissioners precinct method as provided by this
23 section.

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

27 (c) Except as provided by Subsection (e), to be eligible to

1 be a candidate for or to serve as director at large, a person must be
2 a registered voter in the district. To be a candidate for or to
3 serve as director from a county commissioners precinct, a person
4 must be a registered voter of that precinct.

5 (d) A person shall indicate on the application for a place
6 on the ballot:

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

8 or

9 (2) that the person seeks to represent the district at
10 large.

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

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

24 [Sections 8860.054-8860.100 reserved for expansion]

25 SUBCHAPTER C. POWERS AND DUTIES

26 Sec. 8860.101. GENERAL POWERS AND DUTIES. Except as
27 otherwise provided by this chapter, the district has all of the

1 rights, powers, privileges, functions, and duties provided by the
2 general law of this state, including Chapter 36, Water Code,
3 applicable to groundwater conservation districts created under
4 Section 59, Article XVI, Texas Constitution.

5 Sec. 8860.102. CERTAIN PERMIT DENIALS PROHIBITED. The
6 district may not deny the owner of a tract of land, or the owner's
7 lessee, who does not have a well equipped to produce more than
8 25,000 gallons each day on the tract, either a permit to drill a
9 well on the tract or the privilege to produce groundwater from the
10 tract, subject to district rules.

11 Sec. 8860.103. MITIGATION ASSISTANCE. In addition to the
12 authority granted by Chapter 36, Water Code, the district may
13 assist in the mediation between landowners regarding the loss of
14 existing groundwater supply of exempt domestic and livestock users
15 due to the groundwater pumping of others.

16 Sec. 8860.104. PROHIBITION ON DISTRICT USE OF EMINENT
17 DOMAIN POWER. The district may not exercise the power of eminent
18 domain.

19 [Sections 8860.105-8860.150 reserved for expansion]

20 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

21 Sec. 8860.151. FEES. (a) The board by rule may impose a
22 reasonable fee on each well for which a permit is issued by the
23 district and that is not exempt from regulation by the district.

24 The fee may be based on:

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

26 (2) the actual, authorized, or anticipated amount of

27 water to be withdrawn from the well.

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

4 (1) a fee negotiated between the district and the
5 transporter; or

6 (2) a combined production and export fee.

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

9 Sec. 8860.152. TAXES PROHIBITED. The district may not
10 impose a tax and does not have the authority granted by Sections
11 36.020 and 36.201-36.204, Water Code, relating to taxes.

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

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

21 (c) The Texas Commission on Environmental Quality has filed
22 its recommendations relating to this Act with the governor,
23 lieutenant governor, and speaker of the house of representatives
24 within the required time.

25 (d) All requirements of the constitution and laws of this
26 state and the rules and procedures of the legislature with respect
27 to the notice, introduction, and passage of this Act are fulfilled

1 and accomplished.

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