

1-1 By: Eltife S.B. No. 726
1-2 (In the Senate - Filed February 9, 2009; February 25, 2009,
1-3 read first time and referred to Committee on Natural Resources;
1-4 April 17, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 17, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 726 By: Eltife

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of the Harrison County Groundwater
1-11 Conservation District; providing authority to impose a tax and
1-12 issue bonds.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-14 SECTION 1. Subtitle H, Title 6, Special District Local Laws
1-15 Code, is amended by adding Chapter 8850 to read as follows:

1-16 CHAPTER 8850. HARRISON COUNTY GROUNDWATER
1-17 CONSERVATION DISTRICT

1-18 SUBCHAPTER A. GENERAL PROVISIONS

1-19 Sec. 8850.001. DEFINITIONS. In this chapter:

1-20 (1) "Board" means the board of directors of the
1-21 district.

1-22 (2) "Director" means a member of the board.

1-23 (3) "District" means the Harrison County Groundwater
1-24 Conservation District.

1-25 Sec. 8850.002. NATURE OF DISTRICT. The district is a
1-26 groundwater conservation district in Harrison County created under
1-27 and essential to accomplish the purposes of Section 59, Article
1-28 XVI, Texas Constitution.

1-29 Sec. 8850.003. CONFIRMATION ELECTION REQUIRED. If the
1-30 creation of the district is not confirmed at a confirmation
1-31 election held under Section 8850.023 before December 31, 2010:

1-32 (1) the district is dissolved December 31, 2010,
1-33 except that:

1-34 (A) any debts incurred shall be paid;

1-35 (B) any assets that remain after the payment of
1-36 debts shall be transferred to Harrison County; and

1-37 (C) the organization of the district shall be
1-38 maintained until all debts are paid and remaining assets are
1-39 transferred; and

1-40 (2) this chapter expires September 1, 2014.

1-41 Sec. 8850.004. INITIAL DISTRICT TERRITORY. The initial
1-42 boundaries of the district are coextensive with the boundaries of
1-43 Harrison County, Texas.

1-44 Sec. 8850.005. DISTRICT TERRITORY REQUIREMENTS;
1-45 DISSOLUTION OF DISTRICT. (a) On September 1, 2013, the district
1-46 boundaries must include at least one county adjacent to Harrison
1-47 County.

1-48 (b) As soon as practicable after September 1, 2013, the
1-49 Texas Commission on Environmental Quality shall determine whether
1-50 the district complies with Subsection (a).

1-51 (c) If the commission determines that the district does not
1-52 comply with Subsection (a), the commission shall dissolve the
1-53 district in accordance with Sections 36.304, 36.305, 36.307,
1-54 36.308, 36.309, and 36.310, Water Code, regardless of whether the
1-55 district meets the criteria for dissolution under Section
1-56 36.304(a), Water Code.

1-57 (d) This section expires September 1, 2015.

1-58 Sec. 8850.006. APPLICABILITY OF OTHER GROUNDWATER
1-59 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
1-60 chapter, Chapter 36, Water Code, applies to the district.

1-61 [Sections 8850.007-8850.020 reserved for expansion]

1-62 SUBCHAPTER A-1. TEMPORARY PROVISIONS

1-63 Sec. 8850.021. APPOINTMENT OF TEMPORARY DIRECTORS.

2-1 (a) Not later than the 45th day after the effective date of the Act
 2-2 enacting this chapter, five temporary directors shall be appointed
 2-3 as follows:
 2-4 (1) the Harrison County Commissioners Court shall
 2-5 appoint four temporary directors, with one of the temporary
 2-6 directors appointed from each of the four commissioners precincts
 2-7 in the county to represent the precincts in which the temporary
 2-8 directors reside; and
 2-9 (2) the county judge of Harrison County shall appoint
 2-10 one temporary director who resides in the district to represent the
 2-11 district at large.
 2-12 (b) Of the temporary directors, at least one director must
 2-13 represent rural water suppliers in the district, one must represent
 2-14 agricultural interests in the district, and one must represent
 2-15 industrial interests in the district.
 2-16 (c) If there is a vacancy on the temporary board of
 2-17 directors of the district, the Harrison County Commissioners Court
 2-18 shall appoint a person to fill the vacancy in a manner that meets
 2-19 the representational requirements of this section.
 2-20 (d) Temporary directors serve until the earlier of:
 2-21 (1) the date initial directors are elected under
 2-22 Section 8850.023; or
 2-23 (2) the fourth anniversary of the effective date of
 2-24 the Act creating this chapter.
 2-25 (e) If initial directors have not been elected under Section
 2-26 8850.023 and the terms of the temporary directors have expired,
 2-27 successor temporary directors shall be appointed in the manner
 2-28 provided by Subsections (a) and (b) to serve terms that expire on
 2-29 the date this subchapter expires under Section 8850.026.
 2-30 Sec. 8850.022. ORGANIZATIONAL MEETING OF TEMPORARY
 2-31 DIRECTORS. As soon as practicable after all the temporary
 2-32 directors have qualified under Section 36.055, Water Code, a
 2-33 majority of the temporary directors shall convene the
 2-34 organizational meeting of the district at a location within the
 2-35 district agreeable to a majority of the directors. If an agreement
 2-36 on location cannot be reached, the organizational meeting shall be
 2-37 at the Harrison County Courthouse.
 2-38 Sec. 8850.023. CONFIRMATION AND INITIAL DIRECTORS'
 2-39 ELECTION. (a) The temporary directors shall hold an election to
 2-40 confirm the creation of the district and to elect the initial
 2-41 directors of the district.
 2-42 (b) The temporary directors shall have placed on the ballot
 2-43 the names of all candidates for an initial director's position who
 2-44 have filed an application for a place on the ballot as provided by
 2-45 Section 52.003, Election Code.
 2-46 (c) The ballot must be printed to provide for voting for or
 2-47 against the proposition: "The creation of the Harrison County
 2-48 Groundwater Conservation District."
 2-49 (d) If the district levies a maintenance tax for payment of
 2-50 expenses, the ballot must be printed to provide for voting for or
 2-51 against the proposition: "The levy of a maintenance tax at a rate
 2-52 not to exceed 1.5 cents for each \$100 of assessed valuation."
 2-53 (e) Section 41.001(a), Election Code, does not apply to an
 2-54 election held under this section.
 2-55 (f) Except as provided by this section, an election under
 2-56 this section must be conducted as provided by Sections
 2-57 36.017(b)-(i), Water Code, and the Election Code. The provision of
 2-58 Section 36.017(d), Water Code, relating to the election of
 2-59 permanent directors does not apply to an election under this
 2-60 section.
 2-61 Sec. 8850.024. INITIAL DIRECTORS. (a) If creation of the
 2-62 district is confirmed at an election held under Section 8850.023,
 2-63 the directors elected shall take office as initial directors of the
 2-64 district and serve on the board of directors until permanent
 2-65 directors are elected under Section 8850.025 or 8850.053.
 2-66 (b) The four initial directors representing the
 2-67 commissioners precincts shall draw lots to determine which two
 2-68 shall serve a term expiring June 1 following the first regularly
 2-69 scheduled election of directors under Section 8850.025, and which

3-1 two shall serve a term expiring June 1 following the second
 3-2 regularly scheduled election of directors. The at-large director
 3-3 shall serve a term expiring June 1 following the second regularly
 3-4 scheduled election of directors.

3-5 Sec. 8850.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
 3-6 the uniform election date prescribed by Section 41.001, Election
 3-7 Code, in May of the first even-numbered year after the year in which
 3-8 the district is authorized to be created at a confirmation
 3-9 election, an election shall be held in the district for the election
 3-10 of two directors to replace the initial directors who, under
 3-11 Section 8850.024(b), serve a term expiring June 1 following that
 3-12 election.

3-13 Sec. 8850.026. EXPIRATION OF SUBCHAPTER. This subchapter
 3-14 expires September 1, 2014.

[Sections 8850.027-8850.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

3-17 Sec. 8850.051. DIRECTORS; TERMS. (a) The district is
 3-18 governed by a board of five directors.

3-19 (b) Directors serve staggered four-year terms, with two or
 3-20 three directors' terms expiring June 1 of each even-numbered year.

3-21 (c) A director may serve consecutive terms.

3-22 Sec. 8850.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
 3-23 PRECINCTS. (a) The directors of the district shall be elected
 3-24 according to the commissioners precinct method as provided by this
 3-25 section.

3-26 (b) One director shall be elected by the voters of the
 3-27 entire district, and one director shall be elected from each county
 3-28 commissioners precinct by the voters of that precinct.

3-29 (c) Except as provided by Subsection (e), to be eligible to
 3-30 be a candidate for or to serve as director at large, a person must be
 3-31 a registered voter in the district. To be a candidate for or to
 3-32 serve as director from a county commissioners precinct, a person
 3-33 must be a registered voter of that precinct.

3-34 (d) A person shall indicate on the application for a place
 3-35 on the ballot:

3-36 (1) the precinct that the person seeks to represent;
 3-37 or

3-38 (2) that the person seeks to represent the district at
 3-39 large.

3-40 (e) When the boundaries of the county commissioners
 3-41 precincts are redrawn after each federal decennial census to
 3-42 reflect population changes, a director in office on the effective
 3-43 date of the change, or a director elected or appointed before the
 3-44 effective date of the change whose term of office begins on or after
 3-45 the effective date of the change, shall serve in the precinct to
 3-46 which elected or appointed even though the change in boundaries
 3-47 places the person's residence outside the precinct for which the
 3-48 person was elected or appointed.

3-49 Sec. 8850.053. ELECTION DATE. The district shall hold an
 3-50 election to elect the appropriate number of directors on the
 3-51 uniform election date prescribed by Section 41.001, Election Code,
 3-52 in May of each even-numbered year.

3-53 Sec. 8850.054. COMPENSATION. (a) Sections 36.060(a),
 3-54 (b), and (d), Water Code, do not apply to the district.

3-55 (b) A director is entitled to receive compensation of not
 3-56 more than \$50 a day for each day the director actually spends
 3-57 performing the duties of a director. The compensation may not
 3-58 exceed \$3,000 a year.

3-59 (c) The board may authorize a director to receive
 3-60 reimbursement for the director's reasonable expenses incurred
 3-61 while engaging in activities on behalf of the board.

3-62 Sec. 8850.055. BOARD ACTION. A majority vote of a quorum is
 3-63 required for board action. If there is a tie vote, the proposed
 3-64 action fails.

[Sections 8850.056-8850.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

3-67 Sec. 8850.101. GENERAL POWERS. Except as otherwise
 3-68 provided by this chapter, the district has all of the rights,
 3-69 powers, privileges, functions, and duties provided by the general

4-1 law of this state applicable to groundwater conservation districts
4-2 created under Section 59, Article XVI, Texas Constitution.

4-3 Sec. 8850.102. PROHIBITION ON DISTRICT PURCHASE, SALE,
4-4 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not
4-5 purchase, sell, transport, or distribute surface water or
4-6 groundwater for any purpose.

4-7 Sec. 8850.103. PROHIBITION ON DISTRICT USE OF EMINENT
4-8 DOMAIN POWER. The district may not exercise the power of eminent
4-9 domain.

4-10 [Sections 8850.104-8850.150 reserved for expansion]

4-11 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

4-12 Sec. 8850.151. LIMITATION ON TAXES. The district may not
4-13 impose ad valorem taxes at a rate that exceeds 1.5 cents on each
4-14 \$100 valuation of taxable property in the district.

4-15 Sec. 8850.152. FEES. (a) The board by rule may impose
4-16 reasonable fees on each well:

4-17 (1) for which a permit is issued by the district; and

4-18 (2) that is not exempt from district regulation.

4-19 (b) A production fee may be based on:

4-20 (1) the size of column pipe used by the well; or

4-21 (2) the amount of water actually withdrawn from the
4-22 well, or the amount authorized or anticipated to be withdrawn.

4-23 (c) The board shall base the initial production fee on the
4-24 criteria listed in Subsection (b)(2). The initial production fee:

4-25 (1) may not exceed:

4-26 (A) 25 cents per acre-foot for water used for
4-27 agricultural irrigation; or

4-28 (B) 4.25 cents per thousand gallons for water
4-29 used for any other purpose; and

4-30 (2) may be increased at a cumulative rate not to exceed
4-31 three percent per year.

4-32 (d) In addition to the production fee authorized under this
4-33 section, the district may assess an export fee on groundwater from a
4-34 well that is produced for transport outside the district.

4-35 (e) Fees authorized by this section may be:

4-36 (1) assessed annually;

4-37 (2) used to pay the cost of district operations; and

4-38 (3) used for any other purpose allowed under Chapter
4-39 36, Water Code.

4-40 Sec. 8850.153. LIMITATION ON INDEBTEDNESS. The district
4-41 may issue bonds and notes under Subchapter F, Chapter 36, Water
4-42 Code, except that the total indebtedness created by that issuance
4-43 may not exceed \$500,000 at any time.

4-44 SECTION 2. (a) The legal notice of the intention to
4-45 introduce this Act, setting forth the general substance of this
4-46 Act, has been published as provided by law, and the notice and a
4-47 copy of this Act have been furnished to all persons, agencies,
4-48 officials, or entities to which they are required to be furnished
4-49 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4-50 Government Code.

4-51 (b) The governor has submitted the notice and Act to the
4-52 Texas Commission on Environmental Quality.

4-53 (c) The Texas Commission on Environmental Quality has filed
4-54 its recommendations relating to this Act with the governor,
4-55 lieutenant governor, and speaker of the house of representatives
4-56 within the required time.

4-57 (d) All requirements of the constitution and laws of this
4-58 state and the rules and procedures of the legislature with respect
4-59 to the notice, introduction, and passage of this Act are fulfilled
4-60 and accomplished.

4-61 SECTION 3. This Act takes effect immediately if it receives
4-62 a vote of two-thirds of all the members elected to each house, as
4-63 provided by Section 39, Article III, Texas Constitution. If this
4-64 Act does not receive the vote necessary for immediate effect, this
4-65 Act takes effect September 1, 2009.

4-66 * * * * *