

By: Hunter

H.B. No. 2794

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 board member.

(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, 2016:

(1) the district is dissolved on December 31, 2016,
except that the district shall:

1 (A) pay any debts incurred;

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

4 (C) maintain the organization of the district
5 until all debts are paid and remaining assets are transferred; and

6 (2) this chapter expires September 1, 2018.

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

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

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

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

16 Sec. 8860.006. CONFLICTS OF LAW. This chapter prevails
17 over any provision of general law, including a provision of Chapter
18 36, Water Code, that is in conflict or is inconsistent with this
19 chapter.

20 [Sections 8860.007-8860.020 reserved for expansion]

21 SUBCHAPTER A-1. TEMPORARY PROVISIONS

22 Sec. 8860.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a)
23 Not later than September 11, 2011, the Calhoun County Commissioners
24 Court shall appoint five temporary directors as follows:

25 (1) one temporary director from each of the four
26 commissioners precincts in the county to represent the precincts in
27 which the temporary directors reside; and

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

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

9 (c) The temporary directors shall select from among
10 themselves a president, a vice president, and a secretary.

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

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

14 (2) September 1, 2015.

15 (e) If the creation of the district has not been confirmed
16 under Section 8860.022 and the terms of the temporary directors
17 have expired, successor temporary directors shall be appointed in
18 the manner provided by Subsection (a) to serve terms that expire on
19 the earliest of:

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

22 (2) the date the requirements of Section 8860.003(1)
23 are fulfilled; or

24 (3) September 1, 2018.

25 Sec. 8860.022. CONFIRMATION ELECTION. (a) Not later than
26 October 1, 2011, the temporary directors shall meet and shall order
27 an election to be held in the district not later than September 1,

1 2012, to confirm the creation of the district.

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

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

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

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

18 (f) If the district's creation is not confirmed at an
19 election held under this section, the temporary directors may order
20 one or more subsequent elections to be held to confirm the creation
21 of the district not earlier than the first anniversary of the
22 preceding confirmation election. If the district's creation is not
23 confirmed at an election held under this section on or before
24 December 31, 2016, the district is dissolved in accordance with
25 Section 8860.003.

26 Sec. 8860.023. INITIAL DIRECTORS. (a) If the creation of
27 the district is confirmed at an election held under Section

1 8860.022, the temporary directors become the initial directors and
2 serve for the terms provided by Subsection (b).

3 (b) The initial directors representing commissioners
4 precincts 1 and 3 serve a term expiring on December 31 following the
5 expiration of two years after the date of the confirmation
6 election, and the initial directors representing commissioners
7 precincts 2 and 4 and the at-large director serve a term expiring on
8 December 31 following the expiration of four years after the date of
9 the confirmation election.

10 Sec. 8860.024. EXPIRATION OF SUBCHAPTER. This subchapter
11 expires September 1, 2018.

12 [Sections 8860.025-8860.050 reserved for expansion]

13 SUBCHAPTER B. BOARD OF DIRECTORS

14 Sec. 8860.051. GOVERNING BODY; TERMS. (a) The district is
15 governed by a board of five elected directors.

16 (b) Directors serve staggered four-year terms, with two or
17 three directors' terms expiring December 31 of each even-numbered
18 year.

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

22 (b) One director is elected by the voters of the entire
23 district, and one director is elected from each county
24 commissioners precinct by the voters of that precinct.

25 (c) Except as provided by Subsection (e), to be eligible to
26 be a candidate for or to serve as director at large, a person must be
27 a registered voter in the district. To be a candidate for or to

1 serve as director from a county commissioners precinct, a person
2 must be a registered voter of that precinct.

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

5 (1) the precinct that the person seeks to represent;
6 or

7 (2) that the person seeks to represent the district at
8 large.

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

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

22 Sec. 8860.054. VACANCIES. If a vacancy occurs on the board,
23 the remaining directors shall appoint a person to fill the vacancy
24 until the next regularly scheduled election of directors. If the
25 position is not scheduled to be filled at the election, the person
26 elected serves only for the remainder of the unexpired term.

27 Sec. 8860.055. COMPENSATION; EXPENSES. (a) A director is

1 not entitled to receive compensation for performing the duties of a
2 director.

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

6 [Sections 8860.056-8860.100 reserved for expansion]

7 SUBCHAPTER C. POWERS AND DUTIES

8 Sec. 8860.101. GROUNDWATER CONSERVATION DISTRICT POWERS
9 AND DUTIES. Except as otherwise provided by this chapter, the
10 district has the powers and duties provided by the general law of
11 this state, including Chapter 36, Water Code, applicable to
12 groundwater conservation districts created under Section 59,
13 Article XVI, Texas Constitution.

14 Sec. 8860.102. CERTAIN PERMIT DENIALS PROHIBITED. The
15 district may not deny the owner of a tract of land, or the owner's
16 lessee, who does not have a well equipped to produce more than
17 25,000 gallons each day on the tract, either a permit to drill a
18 well on the tract or the privilege to produce groundwater from the
19 tract, subject to district rules.

20 Sec. 8860.103. MITIGATION ASSISTANCE. In addition to the
21 authority granted by Chapter 36, Water Code, the district may
22 assist in the mediation between landowners regarding the loss of
23 existing groundwater supply of exempt domestic and livestock users
24 due to the groundwater pumping of others.

25 Sec. 8860.104. NO EMINENT DOMAIN POWER. The district may
26 not exercise the power of eminent domain.

27 [Sections 8860.105-8860.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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

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

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

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

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

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

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

(b) The governor has submitted the notice and Act to the

1 Texas Commission on Environmental Quality.

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

6 (d) All requirements of the constitution and laws of this
7 state and the rules and procedures of the legislature with respect
8 to the notice, introduction, and passage of this Act are fulfilled
9 and accomplished.

10 SECTION 3. This Act takes effect September 1, 2011.