

By: Gallego

H.B. No. 2859

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Terrell County Groundwater
3 Conservation District; providing authority to impose a tax and
4 issue bonds.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle H, Title 6, Special District Local Laws
7 Code, is amended by adding Chapter 8837 to read as follows:

8 CHAPTER 8837. TERRELL COUNTY GROUNDWATER

9 CONSERVATION DISTRICT

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 8837.001. DEFINITIONS. In this chapter:

12 (1) "Board" means the board of directors of the
13 district.

14 (2) "Director" means a member of the board.

15 (3) "District" means the Terrell County Groundwater
16 Conservation District.

17 Sec. 8837.002. NATURE OF DISTRICT. The district is a
18 groundwater conservation district in Terrell County created under
19 and essential to accomplish the purposes of Section 59, Article
20 XVI, Texas Constitution.

21 Sec. 8837.003. CONFIRMATION ELECTION REQUIRED. If the
22 creation of the district is not confirmed at a confirmation
23 election held under Section 8837.023 before December 31, 2012:

24 (1) the district is dissolved December 31, 2012,

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, 2016.

9 Sec. 8837.004. INITIAL DISTRICT TERRITORY. The initial
10 boundaries of the district are coextensive with the boundaries of
11 Terrell County, Texas.

12 Sec. 8837.005. DISTRICT NAME CHANGE. The board may change
13 the district's name when the district annexes territory.

14 Sec. 8837.006. APPLICABILITY OF OTHER GROUNDWATER
15 CONSERVATION DISTRICT LAW. (a) Except as otherwise provided by
16 this section or this chapter, Chapter 36, Water Code, applies to the
17 district.

18 (b) Section 36.121, Water Code, does not apply to the
19 district.

20 [Sections 8837.007-8837.020 reserved for expansion]

21 SUBCHAPTER A-1. TEMPORARY PROVISIONS

22 Sec. 8837.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a)
23 Not later than the 45th day after the effective date of the Act
24 enacting this chapter, five temporary directors shall be appointed
25 as follows:

26 (1) the Terrell County Commissioners Court shall
27 appoint four temporary directors, one from each of the four

1 commissioners precincts in the county, to represent the precincts
2 in which the temporary directors reside; and

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

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

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

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

15 (1) the date initial directors are elected under
16 Section 8837.023; or

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

19 (e) If initial directors have not been elected under Section
20 8837.023 and the terms of the temporary directors have expired,
21 successor temporary directors shall be appointed in the manner
22 provided by Subsections (a) and (b) to serve terms that expire on
23 the date this subchapter expires under Section 8837.026.

24 Sec. 8837.022. ORGANIZATIONAL MEETING OF TEMPORARY
25 DIRECTORS. As soon as practicable after all the temporary
26 directors have qualified under Section 36.055, Water Code, a
27 majority of the temporary directors shall convene the

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

5 Sec. 8837.023. CONFIRMATION AND INITIAL DIRECTORS'
6 ELECTION. (a) The temporary directors shall hold an election to
7 confirm the creation of the district and to elect the five initial
8 directors of the district in the manner provided by Section
9 8837.052.

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

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

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

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

25 Sec. 8837.024. INITIAL DIRECTORS. (a) If creation of the
26 district is confirmed at an election held under Section 8837.023,
27 the directors elected shall take office as initial directors of the

1 district and serve on the board of directors until permanent
2 directors are elected under Section 8837.025 or 8837.053.

3 (b) The four initial directors representing the
4 commissioners precincts shall draw lots to determine which two
5 shall serve a term expiring June 1 following the first regularly
6 scheduled election of directors under Section 8837.025, and which
7 two shall serve a term expiring June 1 following the second
8 regularly scheduled election of directors. The at-large director
9 shall serve a term expiring June 1 following the second regularly
10 scheduled election of directors.

11 Sec. 8837.025. FIRST ELECTION OF PERMANENT DIRECTORS. On
12 the uniform election date prescribed by Section 41.001, Election
13 Code, in May of the first even-numbered year after the year in which
14 the district is authorized to be created at a confirmation
15 election, an election shall be held in the district for the election
16 of two directors to replace the initial directors who, under
17 Section 8837.024(b), serve a term expiring June 1 following that
18 election.

19 Sec. 8837.026. EXPIRATION OF SUBCHAPTER. This subchapter
20 expires September 1, 2016.

21 [Sections 8837.027-8837.050 reserved for expansion]

22 SUBCHAPTER B. BOARD OF DIRECTORS

23 Sec. 8837.051. DIRECTORS; TERMS. (a) The district is
24 governed by a board of five directors.

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

27 (c) A director may serve consecutive terms.

1 Sec. 8837.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS

2 PRECINCTS. (a) The directors of the district shall be elected
3 according to the commissioners precinct method as provided by this
4 section.

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

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

13 (d) A person shall indicate on the application for a place
14 on the ballot:

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

16 or

17 (2) that the person seeks to represent the district at

18 large.

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

1 Sec. 8837.053. ELECTION DATE. The district shall hold an
2 election to elect the appropriate number of directors on the
3 uniform election date prescribed by Section 41.001, Election Code,
4 in May of each even-numbered year.

5 Sec. 8837.054. COMPENSATION. (a) Sections 36.060(a), (b),
6 and (d), Water Code, do not apply to the district.

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

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

14 [Sections 8837.055-8837.100 reserved for expansion]

15 SUBCHAPTER C. POWERS AND DUTIES

16 Sec. 8837.101. GENERAL POWERS. Except as otherwise
17 provided by this chapter, the district has the rights, powers,
18 privileges, functions, and duties provided by the general law of
19 this state applicable to groundwater conservation districts
20 created under Section 59, Article XVI, Texas Constitution.

21 Sec. 8837.102. PROHIBITION ON DISTRICT PURCHASE, SALE,
22 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not
23 purchase, sell, transport, or distribute surface water or
24 groundwater for any purpose.

25 Sec. 8837.103. PROHIBITION ON DISTRICT USE OF EMINENT
26 DOMAIN POWER. The district may not exercise the power of eminent
27 domain.

1 [Sections 8837.104-8837.150 reserved for expansion]

2 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3 Sec. 8837.151. LIMITATION ON TAXES. The district may not
4 impose ad valorem taxes at a rate that exceeds 1.5 cents on each
5 \$100 valuation of taxable property in the district.

6 Sec. 8837.152. FEES. (a) The board by rule may impose
7 reasonable fees on each well:

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

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

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

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

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

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

16 (1) may not exceed:

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

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

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

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

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

27 (1) assessed annually;

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

2 (3) used for any other purpose allowed under Chapter
3 36, Water Code.

4 Sec. 8837.153. LIMITATION ON INDEBTEDNESS. The district
5 may issue bonds and notes under Subchapter F, Chapter 36, Water
6 Code, except that the total indebtedness created by that issuance
7 may not exceed \$500,000 at any time.

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

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

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

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

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