

By: Seliger

S.B. No. 998

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a groundwater conservation district in a priority groundwater management area.

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

SECTION 1. Section 35.012, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Section 35.013, within ~~Within~~ two years, but no sooner than 120 days, from the date on which the commission issues an order under Section 35.008 designating a priority groundwater management area, for those areas that are not within a district, the commission shall

~~(1)~~ create one or more new districts under Section 36.0151

~~(2) recommend that the areas, or a portion of the areas, be added to an existing district under Section 35.013; or~~

~~(3) take any combination of the actions under Subdivisions (1) and (2)].~~

(b-1) For purposes of this section, the commission may consider territory in two separately designated priority groundwater management areas to be in the same designated priority groundwater management area if:

(1) the two areas share a common boundary and one or more common aquifers; and

1 (2) the commission determines that a district composed
2 of territory in the two areas will result in more effective or
3 efficient groundwater management than other options available to
4 the commission.

5 SECTION 2. Section 35.013, Water Code, is amended by
6 amending Subsections (b), (c), (e), (f), (g), and (h) and adding
7 Subsections (b-1) and (g-1) to read as follows:

8 (b) The commission shall submit a copy of the order to the
9 board of the district to which it is recommending the priority
10 groundwater management area be added. Not later than the 120th day
11 after the date of receiving the copy, the [The] board shall vote on
12 the addition of the priority groundwater management area to the
13 district and shall advise the commission of the outcome.

14 (b-1) If the district described by Subsection (b) has not
15 approved an ad valorem tax on the date of the commission's order
16 issued under Section 35.008 and the board of the district votes to
17 accept the addition of the priority groundwater management area to
18 the district, the board shall enter an order adding the territory in
19 the district.

20 (c) If the district described by Subsection (b) has approved
21 an ad valorem tax on the date of the commission's order issued under
22 Section 35.008 and the board votes to accept the addition of the
23 priority groundwater management area to the district, the board:

24 (1) shall enter an order adding the territory in the
25 district;

26 (2) may request the Texas AgriLife [~~Agricultural~~]
27 Extension Service, the commission, and the Texas Water Development

1 Board, with the cooperation and assistance of the Department of
2 Agriculture and other state agencies, to administer an educational
3 program to inform the residents of the status of the area's water
4 resources, the addition of territory to the district, and
5 ~~[management]~~ options for financing management of the groundwater
6 resources of the ~~[including possible annexation into a]~~ district;

7 (3) ~~[(2)]~~ shall call an election to be held not later
8 than the 270th day after the date of the board's vote under
9 Subsection (b) within the priority groundwater management area, or
10 portion of the priority groundwater management area, as delineated
11 by the commission to determine if the added area will assume a
12 proportional share of the debts or taxes of the district ~~[priority~~
13 ~~groundwater management area will be added to the district];~~ and

14 (4) ~~[(3)]~~ shall designate election precincts and
15 polling places for the elections in the order calling an election
16 under this subsection.

17 (e) The ballots for the election shall be printed to provide
18 for voting for or against the proposition: "The ~~[inclusion of~~
19 _____ ~~(briefly describe priority groundwater~~
20 ~~management area) in the _____ District."~~ If the district
21 ~~has outstanding debts or taxes, the proposition shall include the~~
22 ~~following language:—"and]~~ assumption by the _____ ~~(briefly~~
23 describe the territory added under Subsection (c)(1)) ~~[described~~
24 ~~area]~~ of a proportional share of the debts or taxes of the _____
25 District instead of the assessment of fees in the described area to
26 fund the groundwater management activities of the district."

27 (f) Immediately after the election, the presiding judge of

1 each polling place shall deliver the returns of the election to the
2 board, and the board shall canvass the returns for the election
3 within the priority groundwater management area and declare the
4 results. If a majority of the voters in the priority groundwater
5 management area voting on the proposition vote in favor of the
6 proposition, the board shall declare that the priority groundwater
7 management area assumes a proportional share of the debts or taxes
8 of [~~is added to~~] the district. If a majority of the voters in the
9 priority groundwater management area voting on the proposition do
10 not vote in favor of the proposition [~~against adding the priority~~
11 ~~groundwater management area to the district~~], the board shall adopt
12 rules to implement Subsection (g-1) [~~declare that the priority~~
13 ~~groundwater management area is not added to the district~~]. The
14 board shall file a copy of the election results with the commission.

15 (g) The [~~If the voters approve adding the priority~~
16 ~~groundwater management area to the district, the~~] board of the
17 district to which the priority groundwater management area is added
18 shall provide reasonable representation on that board compatible
19 with the district's existing scheme of representation. Not later
20 than the 30th day after the date on which the board declares that
21 the priority groundwater management area is added to the district,
22 the board of the existing district shall appoint a person or persons
23 to represent the area until the next regularly scheduled election
24 or appointment of directors.

25 (g-1) If the voters do not approve the assumption of a
26 proportional share of the debts or taxes of a district under
27 Subsection (e), the board shall assess production fees in the added

1 territory based on the amount of water authorized by permit to be
2 withdrawn from a well or the amount actually withdrawn. A district
3 may use revenue generated by the fees for any district purpose.

4 Production fees may not exceed:

5 (1) \$2 per acre-foot payable annually for water used
6 for agricultural use; or

7 (2) 30 cents per 1,000 gallons payable annually for
8 water used for any other purpose.

9 (h) Not later than the first anniversary of the date on
10 which [~~if~~] the proposition is defeated, or [~~if~~] the board of the
11 existing district votes not to accept the addition of the area to
12 the district, [~~then~~] the commission shall, except as provided under
13 Subsection (i):

14 (1) [~~7~~] create under Section 36.0151 one or more
15 districts covering the priority groundwater management area; or

16 (2) recommend the area be added to another existing
17 district as provided by this section [~~not later than the first~~
18 ~~anniversary of the date on which the proposition is defeated or the~~
19 ~~board votes not to accept the area~~].

20 SECTION 3. Section 36.0151, Water Code, is amended by
21 amending Subsection (a) and adding Subsections (c), (d), (e), and
22 (f) to read as follows:

23 (a) If the commission is required to create a district under
24 Section 35.012(b), it shall, without an evidentiary hearing, issue
25 an order creating the district and shall provide in its order that
26 temporary directors be appointed under Section 36.0161 [~~36.016~~] and
27 that an election be called by the temporary directors to authorize

1 the district to assess taxes and to elect permanent directors.

2 (c) The commission may amend the territory in an order
3 issued under Section 35.008 or this section to adjust for areas
4 that, in the time between when the order was issued under Section
5 35.008 and the order is issued under this section, have:

6 (1) been added to an existing district or created as a
7 separate district; or

8 (2) not been added to an existing district or created
9 as a separate district.

10 (d) In making a modification under Subsection (c), the
11 commission may recommend:

12 (1) creation of a new district in the area; or

13 (2) that the area be added to a different district.

14 (e) Except as provided by Section 35.013(h), a change in the
15 order under Subsection (c) does not affect a deadline under Section
16 35.012 or 35.013.

17 (f) The commission may not create a groundwater
18 conservation district under this section in territory that exists
19 in a single county in which total surface water use is more than 50
20 times the total groundwater production and that is located in a
21 priority groundwater management area. To the extent of a conflict
22 between this section and Section 35.012, this section controls.

23 SECTION 4. Section 36.0171(h), Water Code, is amended to
24 read as follows:

25 (h) If the majority of the votes cast at the election are
26 against the levy of a maintenance tax, the district shall set permit
27 fees in accordance with Section 35.013(g-1) to pay for the

1 district's regulation of groundwater in the district, including
2 fees based on the amount of water to be withdrawn from a well.

3 SECTION 5. (a) The changes in law made by this Act apply to
4 any territory in a priority groundwater management area that is not
5 included in a groundwater conservation district on the effective
6 date of this Act.

7 (b) Not later than September 1, 2012, the Texas Commission
8 on Environmental Quality shall create a district or add territory
9 to an existing district for any territory for which the commission
10 has issued an order recommending creation of a district or addition
11 of territory to an existing district under Section 35.008, Water
12 Code, before the effective date of this Act, unless the commission
13 determines that the territory is not suitable under Section
14 35.013(i), Water Code.

15 SECTION 6. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2011.