

House Bill 2794
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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:

(A) pay any debts incurred;

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

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

(2) this chapter expires September 1, 2018.

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

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

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

SENATE VERSION (CS)

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CHAPTER 8860. CALHOUN COUNTY GROUNDWATER CONSERVATION DISTRICT

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

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

[Sections 8860.007-8860.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

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

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

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

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

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

(d) Temporary directors serve until the earlier of:

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

(2) September 1, 2015.

(e) If the creation of the district has not been confirmed under

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Section 8860.022 and the terms of the temporary directors have expired, successor temporary directors shall be appointed in the manner provided by Subsection (a) to serve terms that expire on the earliest of:

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

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

(3) September 1, 2018.

Sec. 8860.022. CONFIRMATION ELECTION. (a) Not later than October 1, 2011, the temporary directors shall meet and shall order an election to be held in the district not later than September 1, 2012, to confirm the creation of the district.

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

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

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

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

(f) If the district's creation is not confirmed at an election held under this section, the temporary directors may order one or more subsequent elections to be held to confirm the creation

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<p><u>of the district not earlier than the first anniversary of the preceding confirmation election. If the district's creation is not confirmed at an election held under this section on or before December 31, 2016, the district is dissolved in accordance with Section 8860.003.</u></p> <p><u>Sec. 8860.023. INITIAL DIRECTORS. (a) If the creation of the district is confirmed at an election held under Section 8860.022, the temporary directors become the initial directors and serve for the terms provided by Subsection (b).</u></p> <p><u>(b) The initial directors representing commissioners precincts 1 and 3 serve a term expiring on December 31 following the expiration of two years after the date of the confirmation election, and the initial directors representing commissioners precincts 2 and 4 and the at-large director serve a term expiring on December 31 following the expiration of four years after the date of the confirmation election.</u></p> <p><u>Sec. 8860.024. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2018.</u></p> <p><u>[Sections 8860.025-8860.050 reserved for expansion]</u></p> <p><u>SUBCHAPTER B. BOARD OF DIRECTORS</u></p> <p><u>Sec. 8860.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.</u></p> <p><u>(b) Directors serve staggered four-year terms, with two or three directors' terms expiring December 31 of each even-numbered year.</u></p> <p><u>Sec. 8860.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district are elected according to the commissioners precinct method as provided by this section.</u></p> <p><u>(b) One director is elected by the voters of the entire district, and one director is elected from each county commissioners precinct by the voters of that precinct.</u></p>	<p><u>of the district not earlier than the first anniversary of the preceding confirmation election. If the district's creation is not confirmed at an election held under this section on or before December 31, 2016, the district is dissolved in accordance with Section 8860.003.</u></p> <p><u>Sec. 8860.023. INITIAL DIRECTORS. (a) If the creation of the district is confirmed at an election held under Section 8860.022, the temporary directors become the initial directors and serve for the terms provided by Subsection (b).</u></p> <p><u>(b) The initial directors representing commissioners precincts 1 and 3 serve a term expiring on December 31 following the expiration of two years after the date of the confirmation election, and the initial directors representing commissioners precincts 2 and 4 and the at-large director serve a term expiring on December 31 following the expiration of four years after the date of the confirmation election.</u></p> <p><u>Sec. 8860.024. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2018.</u></p> <p><u>[Sections 8860.025-8860.050 reserved for expansion]</u></p> <p><u>SUBCHAPTER B. BOARD OF DIRECTORS</u></p> <p><u>Sec. 8860.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.</u></p> <p><u>(b) Directors serve staggered four-year terms, with two or three directors' terms expiring December 31 of each even-numbered year.</u></p> <p><u>Sec. 8860.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district are elected according to the commissioners precinct method as provided by this section.</u></p> <p><u>(b) One director is elected by the voters of the entire district, and one director is elected from each county commissioners precinct by the voters of that precinct.</u></p>	

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

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

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

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

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

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

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

Sec. 8860.055. COMPENSATION; EXPENSES. (a) A director is not entitled to receive compensation for performing the duties of a director.

(b) The board may authorize a director to receive

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

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reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the district.

[Sections 8860.056-8860.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

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

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

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

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

[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

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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 Texas Commission on Environmental Quality.
(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.
(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

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SECTION 2. Same as House version.

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

SECTION 3. Same as House version.