

BILL ANALYSIS

C.S.H.B. 3880
By: Paddie
Special Purpose Districts
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the counties of Sabine, San Augustine, and Shelby wish to form the Deep East Texas Groundwater Conservation District and that the commissioners court of each of these counties has passed a resolution supporting the creation of the district. C.S.H.B. 3880 provides for the creation of the district.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3880 amends the Special District Local Laws Code to create the Deep East Texas Groundwater Conservation District. The bill dissolves the district on September 1, 2015, if the creation of the district is not confirmed at a confirmation election before such date. The bill, among other provisions, provides for the addition of an adjacent county to the district, a permit to transfer groundwater, and the refund of certain permit fees.

C.S.H.B. 3880 prohibits the district from purchasing groundwater rights for any purpose, from producing groundwater for the purpose of sale, from requiring that a meter be placed on a well that is incapable of producing more than 25,000 gallons of groundwater per day, and from exercising the power of eminent domain. The bill caps the rate of property taxes that the district may impose at five cents on each \$100 valuation of taxable property in the district.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3880 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8873 to read as follows:

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CHAPTER 8873. DEEP EAST TEXAS
GROUNDWATER CONSERVATION
DISTRICT

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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8873.001. DEFINITIONS.

Sec. 8873.002. NATURE OF DISTRICT; FINDINGS.

Sec. 8873.003. CONFIRMATION ELECTION REQUIRED

Sec. 8873.004. INITIAL DISTRICT TERRITORY. (a) Except as provided by Subsection (b), the initial boundaries of the district are coextensive with the boundaries of Sabine, San Augustine, and Shelby Counties.

(b) If the creation of the district is not confirmed by the voters of a county at an election held under Section 8873.023, that county is not included in the district.

No equivalent provision.

Sec. 8873.005. ADDITION OF ADJACENT COUNTY TO DISTRICT.

Sec. 8873.006 LANDOWNERS' RIGHTS.

Sec. 8873.007. REVIEW OF RESOLUTION REQUESTING LEGISLATION.

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8873.021. APPOINTMENT OF TEMPORARY DIRECTORS.

Sec. 8873.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS.

Sec. 8873.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election on the same date in Sabine, San Augustine, and Shelby Counties to confirm the creation of the

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8873.001. DEFINITIONS.

Sec. 8873.002. NATURE OF DISTRICT; FINDINGS.

Sec. 8873.003. CONFIRMATION ELECTION REQUIRED.

Sec. 8873.004. INITIAL DISTRICT TERRITORY. (a) Except as provided by Subsections (b) and (c), the initial boundaries of the district are coextensive with the boundaries of Sabine, San Augustine, and Shelby Counties.

(b) If the creation of the district is not confirmed by the voters of a county at an election held under Section 8873.023, that county is not included in the district.

(c) If a majority of the voters of the City of Center do not vote at an election under Section 8873.024 in favor of the inclusion in the district of the territory of the city, as that territory exists on the date of the election, the territory of the City of Center is not included in the district.

Sec. 8873.005. ADDITION OF ADJACENT COUNTY TO DISTRICT

Sec. 8873.006. LANDOWNERS' RIGHTS.

Sec. 8873.007. REVIEW OF RESOLUTION REQUESTING LEGISLATION

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8873.021. APPOINTMENT OF TEMPORARY DIRECTORS.

Sec. 8873.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS.

Sec. 8873.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election on the same date in Sabine, San Augustine, and Shelby Counties and in the City of Center to confirm the

district.

(b) Except as provided by this section, an election under this section must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code. Sections 36.017(d) and (h), Water Code, do not apply to an election under this section.

(c) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of the Deep East Texas Groundwater Conservation District and the levy of an ad valorem tax in the district at a rate not to exceed five cents for each \$100 of assessed valuation."

(d) If the proposition receives a favorable vote of a majority of the voters voting in the election in two or more counties, the creation of the district is confirmed.

(e) If the proposition receives a favorable vote of a majority of the voters voting in the election in only one county, the creation of the district is not confirmed unless the commissioners court of that county votes to confirm the creation of the district. The commissioners court must:

(1) hold two public hearings on the matter before voting on the matter; and

(2) vote to confirm the creation of the district not later than the 60th day after the date of the election.

No equivalent provision.

Sec. 8873.024. INITIAL PERMANENT DIRECTORS; INITIAL TERMS.

Sec. 8873.025. EXPIRATION OF SUBCHAPTER.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8873.051. GOVERNING BODY; TERMS. (a) The district is governed by a

creation of the district.

(b) Except as provided by this section, an election under this section must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code. Sections 36.017(d) and (h), Water Code, do not apply to an election under this section.

(c) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of the Deep East Texas Groundwater Conservation District and the levy of an ad valorem tax in the district at a rate not to exceed five cents for each \$100 of assessed valuation."

(d) If the proposition receives a favorable vote of a majority of the voters voting in the election in two or more counties, the creation of the district is confirmed.

(e) If the proposition receives a favorable vote of a majority of the voters voting in the election in only one county, the creation of the district is not confirmed unless the commissioners court of that county votes to confirm the creation of the district. The commissioners court must:

(1) hold two public hearings on the matter before voting on the matter; and

(2) vote to confirm the creation of the district not later than the 60th day after the date of the election.

Sec. 8873.024. MUNICIPAL ELECTION.

(a) Notwithstanding Section 36.018, Water Code, a separate voting district shall be established in the City of Center to determine whether the municipality is to be included in the district.

(b) The territory in the City of Center shall be included in the district only if a majority of the voters in the municipal territory of the City of Center vote in favor of the municipality's inclusion in the district.

Sec. 8873.025. INITIAL PERMANENT DIRECTORS; INITIAL TERMS.

Sec. 8873.026. EXPIRATION OF SUBCHAPTER.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8873.051. GOVERNING BODY; TERMS. (a) The district is governed by a

board of seven, five, or three directors appointed as provided by this section.

(b) If the voters in Sabine, San Augustine, and Shelby Counties confirm the creation of the district, seven directors shall be appointed as follows:

(1) the county judge of each confirming county shall appoint two directors who are residents of that county; and

(2) the county judges of the confirming counties shall by majority vote jointly appoint one director, who shall serve as board chair, from the district at large.

(c) If the voters in only two of the counties confirm the creation of the district, five directors shall be appointed as follows:

(1) the county judge of each confirming county shall appoint two directors who are residents of that county; and

(2) the county judges of the confirming counties shall jointly appoint one director, who shall serve as board chair, from the district at large.

(d) If the voters and the commissioners court of only one county confirm the creation of the district, the county judge of that county:

(1) shall appoint three directors who are residents of that county and designate one of those directors as board chair; and

(2) may appoint two directors, in addition to the three directors appointed under Subdivision (1), who are residents of that county.

(e) Directors serve staggered four-year terms, with as near as possible to one-half of the directors' terms expiring December 31 of each odd-numbered year.

(f) A director may not serve more than two terms.

Sec. 8873.052. CHANGE IN COMPOSITION; ADDITIONAL COUNTY

Sec. 8873.053. QUALIFICATION OF DIRECTORS.

Sec. 8873.054. VACANCIES.

Sec. 8873.055. COMPENSATION; REIMBURSEMENT.

SUBCHAPTER C. POWERS AND

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(b) If the voters in Sabine, San Augustine, and Shelby Counties confirm the creation of the district, seven directors shall be appointed as follows:

(1) the county judge of each confirming county shall appoint two directors who are residents of that county; and

(2) the county judges of the confirming counties shall by majority vote jointly appoint one director, who shall serve as board chair, from the district at large.

(c) If the voters in only two of the counties confirm the creation of the district, five directors shall be appointed as follows:

(1) the county judge of each confirming county shall appoint two directors who are residents of that county; and

(2) the county judges of the confirming counties shall jointly appoint one director, who shall serve as board chair, from the district at large.

(d) ~~Notwithstanding Section 36.051(a), Water Code,~~ if the voters and the commissioners court of only one county confirm the creation of the district, the county judge of that county:

(1) shall appoint three directors who are residents of that county and designate one of those directors as board chair; and

(2) may appoint two directors, in addition to the three directors appointed under Subdivision (1), who are residents of that county.

(e) Directors serve staggered four-year terms, with as near as possible to one-half of the directors' terms expiring December 31 of each odd-numbered year.

(f) A director may not serve more than two terms.

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SUBCHAPTER C. POWERS AND

DUTIES

Sec. 8873.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES.

Sec. 8873.102. PERMIT TO TRANSFER GROUNDWATER.

Sec. 8873.103. PROHIBITION ON DISTRICT PURCHASE OF GROUNDWATER RIGHTS.

Sec. 8873.104. PROHIBITION ON DISTRICT PRODUCTION OF GROUNDWATER FOR PURPOSE OF SALE.

Sec. 8873.105. PROHIBITION ON DISTRICT METERING OF CERTAIN WELLS.

Sec. 8873.106. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWER.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8873.151. LIMITATION ON TAXES.

Sec. 8873.152. PERMIT FEES REFUNDABLE.

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, one of the required recipients, 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, the lieutenant governor, and

DUTIES

Sec. 8873.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES.

Sec. 8873.102. PERMIT TO TRANSFER GROUNDWATER.

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SECTION 2. Same as introduced version.

the 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.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 3. Same as introduced version.