

By: Miller of Comal

H.B. No. 3924

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Comal Trinity Groundwater Conservation District; providing authority to issue bonds; providing authority to impose assessments, fees, or surcharges.

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 8875 to read as follows:

CHAPTER 8875. COMAL TRINITY GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8875.001. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a member of the board.

(4) "District" means the Comal Trinity Groundwater Conservation District.

(5) "Retail public utility" means a retail public utility as defined by Section 13.002, Water Code, that is providing service in the district.

Sec. 8875.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Comal County created under and essential to accomplish the purposes of Section 59, Article XVI,

1 Texas Constitution.

2 Sec. 8875.003. CONFIRMATION ELECTION REQUIRED. If the
3 creation of the district is not confirmed at a confirmation
4 election held before December 31, 2016:

5 (1) the district is dissolved on December 31, 2017,
6 except that:

7 (A) any debts incurred shall be paid;

8 (B) any assets that remain after the payment of
9 debts shall be transferred to Comal County; and

10 (C) the organization of the district shall be
11 maintained until all debts are paid and remaining assets are
12 transferred; and

13 (2) this chapter expires on September 1, 2020.

14 Sec. 8875.004. INITIAL DISTRICT TERRITORY. The initial
15 boundaries of the district are coextensive with the boundaries of
16 Comal County, Texas, except that the district does not include any
17 territory that is included in the boundaries of the Trinity Glen
18 Rose Groundwater Conservation District.

19 Sec. 8875.005. CONFLICTS OF LAW. (a) Except as provided by
20 Subsection (b), this chapter prevails over any provision of general
21 law, including a provision of Chapter 36, Water Code, that is in
22 conflict or is inconsistent with this chapter.

23 (b) The following provisions prevail over a provision of
24 this chapter that is in conflict or is inconsistent with the
25 provision:

26 (1) Sections 36.1071-36.108, Water Code;

27 (2) Sections 36.159-36.161, Water Code; and

1 (3) Subchapter I, Chapter 36, Water Code.

2 SUBCHAPTER A-1. TEMPORARY PROVISIONS

3 Sec. 8875.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a)

4 The temporary board consists of:

5 (1) Velma Reyes-Danielson;

6 (2) Jim Bower;

7 (3) Larry Alexander;

8 (4) John Seidel; and

9 (5) Robert E. Johnson, Jr.

10 (b) The temporary directors may adopt rules and assess fees
11 to manage and operate the district. On the election of the permanent
12 directors, the permanent directors shall consider and may approve
13 the rules adopted by the temporary directors. A rule that is not
14 approved by the permanent directors is not enforceable.

15 (c) If there is a vacancy on the temporary board of
16 directors of the district, the remaining temporary directors shall
17 select a qualified person to fill the vacancy. If, at any time,
18 there are fewer than three qualified temporary directors, the Comal
19 County Commissioners Court shall appoint the necessary number of
20 persons to fill all vacancies on the board.

21 (d) Temporary directors or their successors serve until the
22 earlier of:

23 (1) the time the initial directors are elected as
24 provided by Section 8875.025 and have qualified; or

25 (2) the date this chapter expires under Section
26 8875.003.

27 Sec. 8875.022. ORGANIZATIONAL MEETING OF TEMPORARY

1 DIRECTORS. As soon as practicable after all the temporary
2 directors have qualified under Section 36.055, Water Code, a
3 majority of the temporary directors shall convene the
4 organizational meeting of the district at a location within the
5 district agreeable to a majority of the directors. At the meeting,
6 the temporary directors shall elect a chair, vice chair, and
7 secretary from among the temporary directors.

8 Sec. 8875.023. CONFIRMATION ELECTION. (a) The temporary
9 directors shall order an election to be held in the district to
10 confirm the creation of the district.

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

13 (c) Except as provided by this section, a confirmation
14 election must be conducted as provided by the Election Code and
15 Sections 36.017(b)-(h), Water Code.

16 (d) If a majority of the votes cast at the election are in
17 favor of confirming the district's creation, the temporary
18 directors shall declare the district created. If a majority of the
19 votes cast are not in favor of confirming the district's creation,
20 the district's creation is not confirmed. The temporary directors
21 shall file a copy of the election results with the commission.

22 (e) If the district's creation is not confirmed at an
23 election held under this section, the temporary directors may order
24 one or more subsequent elections to be held to confirm the creation
25 of the district not earlier than the first anniversary of the
26 preceding confirmation election. If the district's creation is not
27 confirmed at an election held under this section before December

1 31, 2016, the district is dissolved in accordance with Section
2 8875.003.

3 Sec. 8875.024. CONTINUATION OF TEMPORARY DIRECTORS. (a)

4 If the creation of the district is confirmed at an election held
5 under Section 8875.023, the temporary directors shall continue to
6 serve as temporary directors until the uniform election date
7 prescribed by Section 41.001, Election Code, in November of the
8 first even-numbered year after the year in which the creation of the
9 district is confirmed.

10 (b) The term of a temporary director may not exceed four
11 years.

12 (c) If permanent directors have not been elected under
13 Section 8875.025 and the terms of the temporary directors have
14 expired, successor temporary directors shall be appointed or
15 reappointed as provided by Subsection (d) to serve terms that
16 expire on the earlier of:

17 (1) the date permanent directors are elected under
18 Section 8875.025; or

19 (2) the fourth anniversary of the date of the
20 appointment or reappointment.

21 (d) If Subsection (c) applies, the temporary directors may
22 submit a petition to the Comal County Commissioners Court
23 requesting that the commissioners court appoint as successor
24 temporary directors the five persons named in the petition. The
25 commissioners court shall appoint as successor temporary directors
26 the five persons named in the petition.

27 Sec. 8875.025. INITIAL ELECTION OF PERMANENT DIRECTORS.

1 (a) On the uniform election date prescribed by Section 41.001,
2 Election Code, in November of the first even-numbered year after
3 the year in which the creation of the district is confirmed under
4 Section 8875.023, an election shall be held in the district for the
5 election of five directors to replace the temporary directors who
6 shall serve until that election.

7 (b) The initial permanent directors shall draw lots to
8 determine which three directors shall serve a four-year term and
9 which two directors shall serve a two-year term.

10 Sec. 8875.026. EXPIRATION OF SUBCHAPTER. This subchapter
11 expires December 31, 2019.

12 SUBCHAPTER B. BOARD OF DIRECTORS

13 Sec. 8875.051. DIRECTORS; TERMS. (a) The district is
14 governed by a board of five directors.

15 (b) Directors serve staggered four-year terms.

16 Sec. 8875.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
17 PRECINCTS. (a) The directors of the district shall be elected
18 according to the commissioners precinct method as provided by this
19 section.

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

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

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

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

4 or

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

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

16 (f) After the first election held after the boundaries of
17 the county commissioners precincts are redrawn, the directors
18 elected shall draw lots to determine which three directors shall
19 serve a four-year term and which two directors shall serve a
20 two-year term.

21 (g) A director may not serve more than two consecutive terms
22 and may not serve for a total of more than 12 years.

23 Sec. 8875.053. ELECTION DATE. The district shall hold an
24 election to elect the appropriate number of directors on the
25 uniform election date prescribed by Section 41.001, Election Code,
26 in November of each even-numbered year.

27 Sec. 8875.054. VACANCIES. A vacancy on the board shall be

1 filled by appointment of the board until the next regularly
2 scheduled directors' election. The person appointed to fill the
3 vacancy shall serve only for the remainder of the unexpired term.

4 SUBCHAPTER C. POWERS AND DUTIES

5 Sec. 8875.101. GROUNDWATER CONSERVATION DISTRICT POWERS
6 AND DUTIES. The district has the rights, powers, privileges,
7 functions, and duties provided by the general law of this state,
8 including Chapter 36, Water Code, applicable to groundwater
9 conservation districts created under Section 59, Article XVI, Texas
10 Constitution.

11 Sec. 8875.102. CONTRACTS. The district may contract with a
12 state agency or political subdivision, including a county, a river
13 authority, or another district, to carry out any function of the
14 district.

15 Sec. 8875.103. BEST MANAGEMENT PRACTICES. (a) The
16 district may participate in the development and implementation of
17 best management practices for water resource management in the
18 district and may engage in and promote the acceptance of best
19 management practices through education efforts sponsored by the
20 district.

21 (b) Development and implementation of best management
22 practices must address water quantity and quality practices such as
23 brush management, prescribed grazing, recharge structures, water
24 and silt detention and retention structures, plugging of abandoned
25 wells, rainwater harvesting, and other treatment measures for the
26 conservation of water resources.

27 (c) The district may not adopt or implement a best

1 management practice that is in conflict with or duplicative of a
2 best management practice adopted by a groundwater conservation
3 district whose territory covers any part of Comal County.

4 Sec. 8875.104. LIMITATIONS ON DISTRICT POWERS. (a) The
5 district may not:

6 (1) require the owner of a well used solely for
7 domestic or livestock purposes to install a meter or measuring
8 device on the well;

9 (2) except as provided by Subdivision (3), and
10 notwithstanding Section 36.122, Water Code, allow the sale,
11 transport, or export of groundwater produced from a well inside the
12 district to a person or location outside the district;

13 (3) if the owner of a well with a certificate of public
14 convenience and necessity obtains a permit from the district,
15 prohibit the sale, transport, or export of groundwater produced
16 from a well inside the district to a person located inside the
17 territory covered by the well owner's certificate of public
18 convenience and necessity; or

19 (4) assess and collect a production fee on wells
20 exempt from permitting.

21 (b) The district does not have the authority granted by
22 Sections 36.020 and 36.201-36.204, Water Code, relating to taxes.

23 Sec. 8875.105. WELL EXEMPTION. Notwithstanding Section
24 36.117(j), Water Code, a well drilled on or before the effective
25 date of the Act enacting this chapter, for any purpose authorized
26 under this chapter, is exempt from the requirement to obtain a
27 withdrawal permit provided that the well:

1 (1) is used solely for domestic use or for providing
2 water for livestock or poultry regardless of land lot size and is
3 drilled, completed, or equipped so that it is incapable of
4 producing more than 25,000 gallons of groundwater a day;

5 (2) is not capable of producing more than 10,000
6 gallons of water a day; or

7 (3) is metered and does not produce more than 10
8 acre-feet of water in a calendar year.

9 Sec. 8875.106. MEASURING DEVICES. (a) The owner of a
10 nonexempt well shall install and maintain a water well meter, or
11 alternative measuring device or method approved by the district,
12 designed to indicate the flow rate and cumulative amount of water
13 withdrawn by that well, on each individual well no later than 36
14 months after the effective date of the Act enacting this chapter.

15 (b) A well owner is responsible for the costs of installing,
16 operating, and maintaining measuring devices.

17 Sec. 8875.107. NO EMINENT DOMAIN. The district may not
18 exercise the power of eminent domain.

19 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

20 Sec. 8875.151. FEES. (a) The district may impose
21 reasonable production fees only on each nonexempt well based on the
22 amount of water actually withdrawn from the well. The district
23 shall adopt any rules necessary for the assessment and collection
24 of fees under this subsection.

25 (b) The district may use money collected from fees:

26 (1) in any manner necessary for the management and
27 operation of the district;

1 (2) to pay all or part of the principal of and interest
2 on district bonds or notes; and

3 (3) for any purpose consistent with the district's
4 approved water management plan.

5 (c) The production fee may not exceed \$30 per acre-foot.

6 (d) Not later than two years after the date on which the
7 district is confirmed at an election, the directors of the district
8 shall reconsider the production fee cap provided by Subsection (c)
9 for the sole purpose of determining if decreasing the dollar amount
10 of the production fee cap would more accurately reflect actual
11 water use and actual expenses related to managing and operating the
12 district. The district may set a lower production fee cap if the
13 lower cap more accurately reflects the actual water use and actual
14 expenses related to managing and operating the district.

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

22 (b) The governor, one of the required recipients, has
23 submitted the notice and Act to the Texas Commission on
24 Environmental Quality.

25 (c) The Texas Commission on Environmental Quality has filed
26 its recommendations relating to this Act with the governor, the
27 lieutenant governor, and the speaker of the house of

1 representatives within the required time.

2 (d) All requirements of the constitution and laws of this
3 state and the rules and procedures of the legislature with respect
4 to the notice, introduction, and passage of this Act are fulfilled
5 and accomplished.

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