

By: Nichols

S.B. No. 1840

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Deep East Texas Groundwater Conservation District; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

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 8873 to read as follows:

CHAPTER 8873. DEEP EAST TEXAS GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8873.001. DEFINITIONS. In this chapter:

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

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

(3) "District" means the Deep East Texas Groundwater Conservation District.

Sec. 8873.002. NATURE OF DISTRICT; FINDINGS. (a) The district is a groundwater conservation district in Sabine, San Augustine, and Shelby Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

(c) All of the land and other property included within the boundaries of the district will be benefited by the works and

1 projects that are to be accomplished by the district under powers
2 conferred by this chapter and by Chapter 36, Water Code.

3 Sec. 8873.003. CONFIRMATION ELECTION REQUIRED. If the
4 creation of the district is not confirmed at a confirmation
5 election held under Section 8873.023 before September 1, 2015:

6 (1) the district is dissolved on September 1, 2015,
7 except that:

8 (A) any debts incurred shall be paid;

9 (B) any assets that remain after the payment of
10 debts shall be transferred to each county in proportion to the
11 contribution of money made; and

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

15 (2) this chapter expires September 1, 2017.

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

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

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

1 Sec. 8873.005. ADDITION OF ADJACENT COUNTY TO DISTRICT.

2 (a) An adjacent county may petition to join the district by
3 resolution of the county commissioners court.

4 (b) If, after a hearing on the resolution, the board finds
5 that the addition of the county would benefit the district and the
6 county to be added, the board by resolution may approve the addition
7 of the county to the district.

8 (c) The addition of a county under this section is not final
9 until approved by the voters in the county to be added at an
10 election held for that purpose.

11 (d) The ballot for the election shall be printed to permit
12 voting for or against the proposition: "The addition of (county's
13 name) to the Deep East Texas Groundwater Conservation District."

14 (e) If a majority of the votes are cast in favor of the
15 addition of the county to the district, the county is added to the
16 district, and the district boundaries are adjusted accordingly. If
17 less than a majority of the votes are cast in favor of the addition
18 of the county to the district, the county is not added to the
19 district.

20 Sec. 8873.006. LANDOWNERS' RIGHTS. The rights of
21 landowners and their lessees and assigns in groundwater in the
22 district are recognized. Nothing in this chapter shall be
23 construed to deprive or divest the owners or their lessees and
24 assigns of their rights, subject to district rules.

25 Sec. 8873.007. REVIEW OF RESOLUTION REQUESTING
26 LEGISLATION. The board may not vote on a resolution requesting the
27 legislature to amend this chapter unless the board first submits

1 for review a copy of the proposed resolution to the commissioners
2 court of each county included in the district.

3 SUBCHAPTER A-1. TEMPORARY PROVISIONS

4 Sec. 8873.021. APPOINTMENT OF TEMPORARY DIRECTORS.

5 (a) The district is initially governed by a board of seven
6 temporary directors appointed as provided by Section 8873.051(b).

7 (b) Temporary directors shall be appointed not later than
8 the 90th day after the effective date of the Act enacting this
9 chapter. If after the 90th day fewer than seven temporary directors
10 have been appointed, each unfilled position shall be considered a
11 vacancy and filled in accordance with Subsection (c).

12 (c) If a vacancy occurs on the temporary board, the
13 remaining temporary directors shall appoint a person to fill the
14 vacancy in a manner that meets the representational requirements of
15 Section 8873.051(b).

16 (d) Each temporary director must qualify to serve as a
17 director in the manner provided by Section 36.055, Water Code.

18 (e) Temporary directors serve until the earlier of:

19 (1) the time the temporary directors become the
20 initial permanent directors under Section 8873.025; or

21 (2) the date this chapter expires under Section
22 8873.003.

23 Sec. 8873.022. ORGANIZATIONAL MEETING OF TEMPORARY
24 DIRECTORS. As soon as practicable after all the temporary
25 directors have qualified under Section 36.055, Water Code, a
26 majority of the temporary directors shall convene the
27 organizational meeting of the district at a location in the

1 district agreeable to a majority of the directors.

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

6 (b) Except as provided by this section, an election under
7 this section must be conducted as provided by Sections
8 36.017(b)-(i), Water Code, and the Election Code. Sections
9 36.017(d) and (h), Water Code, do not apply to an election under
10 this section.

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

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

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

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

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

1 Sec. 8873.024. MUNICIPAL ELECTION. (a) Notwithstanding
2 Section 36.018, Water Code, a separate voting district shall be
3 established in the City of Center to determine whether the
4 municipality is to be included in the district.

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

9 Sec. 8873.025. INITIAL PERMANENT DIRECTORS; INITIAL TERMS.

10 (a) If the creation of the district is confirmed under Section
11 8873.023, the temporary directors from the counties that are
12 included in the district become the district's initial permanent
13 directors.

14 (b) If the voters of Sabine, San Augustine, and Shelby
15 Counties confirm the creation of the district at an election held
16 under Section 8873.023:

17 (1) the two directors appointed from each county shall
18 draw lots to determine which director serves an initial term
19 expiring December 31, 2015, and which director serves an initial
20 term expiring December 31, 2017; and

21 (2) the jointly appointed director serves an initial
22 term expiring December 31, 2017.

23 (c) If the voters of only two of the counties confirm the
24 creation of the district:

25 (1) the two directors appointed by the county judge of
26 the county that does not confirm the creation of the district and
27 the director jointly appointed by the county judges of all three

1 counties are no longer eligible to serve as directors and their
2 terms expire;

3 (2) the two directors appointed from each confirming
4 county shall draw lots to determine which director serves an
5 initial term expiring December 31, 2015, and which director serves
6 an initial term expiring December 31, 2017; and

7 (3) the county judges of the confirming counties shall
8 jointly appoint a director as provided by Section 8873.051(c), who
9 serves an initial term expiring December 31, 2017.

10 (d) If the voters and the commissioners court of one county
11 confirm the creation of the district:

12 (1) the four directors appointed by the county judges
13 of the two counties that do not confirm the creation of the district
14 and the director jointly appointed by the county judges of all three
15 counties are no longer eligible to serve as director and their terms
16 expire;

17 (2) the two directors appointed from the confirming
18 county shall draw lots to determine which director serves an
19 initial term expiring December 31, 2015, and which director serves
20 an initial term expiring December 31, 2017; and

21 (3) the county judge of the confirming county:

22 (A) shall appoint one initial director with a
23 term expiring December 31, 2017, as board chair; and

24 (B) may appoint two additional initial directors
25 who are residents of that county and who, if appointed, shall draw
26 lots to determine which director serves an initial term expiring
27 December 31, 2015, and which director serves an initial term

1 expiring December 31, 2017.

2 Sec. 8873.026. EXPIRATION OF SUBCHAPTER. This subchapter
3 expires September 1, 2016.

4 SUBCHAPTER B. BOARD OF DIRECTORS

5 Sec. 8873.051. GOVERNING BODY; TERMS. (a) The district is
6 governed by a board of seven, five, or three directors appointed as
7 provided by this section.

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

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

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

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

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

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

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

27 (1) shall appoint three directors who are residents of

1 that county and designate one of those directors as board chair; and
2 (2) may appoint two directors, in addition to the
3 three directors appointed under Subdivision (1), who are residents
4 of that county.

5 (e) Directors serve staggered four-year terms, with as near
6 as possible to one-half of the directors' terms expiring December
7 31 of each odd-numbered year.

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

9 Sec. 8873.052. CHANGE IN COMPOSITION; ADDITIONAL COUNTY.
10 If a county is added to the district, the board may change the
11 number of directors so that:

12 (1) an equal number of directors are appointed by the
13 county judge of each county in the district;

14 (2) one director is appointed jointly by the county
15 judges of each county in the district; and

16 (3) the board is composed of an odd number of
17 directors.

18 Sec. 8873.053. QUALIFICATION OF DIRECTORS. Each director
19 must qualify to serve as a director in the manner provided by
20 Section 36.055, Water Code.

21 Sec. 8873.054. VACANCIES. If a vacancy occurs on the board,
22 the appointing county judge or, if applicable, the appointing
23 county judges for the vacant position shall appoint a person to fill
24 the vacancy in a manner that meets the representational
25 requirements of Section 8873.051. Section 36.051(c), Water Code,
26 does not apply to the district.

27 Sec. 8873.055. COMPENSATION; REIMBURSEMENT.

1 (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a
2 director may not receive compensation for performing the duties of
3 director.

4 (b) A director is entitled to reimbursement of actual
5 expenses reasonably and necessarily incurred while engaging in
6 activities on behalf of the district.

7 SUBCHAPTER C. POWERS AND DUTIES

8 Sec. 8873.101. GROUNDWATER CONSERVATION DISTRICT POWERS
9 AND DUTIES. Except as provided by this chapter, the district has
10 the powers and duties provided by the general law of this state,
11 including Chapter 36, Water Code, applicable to groundwater
12 conservation districts created under Section 59, Article XVI, Texas
13 Constitution.

14 Sec. 8873.102. PERMIT TO TRANSFER GROUNDWATER. (a) The
15 board by rule may:

16 (1) require a person to obtain a permit from the
17 district to transfer groundwater out of the district; and

18 (2) regulate the terms of a transfer of groundwater
19 out of the district.

20 (b) A rule adopted by the board under this section must be
21 consistent with the requirements of Section 36.122, Water Code.

22 Sec. 8873.103. PROHIBITION ON DISTRICT PURCHASE OF
23 GROUNDWATER RIGHTS. The district may not purchase groundwater
24 rights for any purpose.

25 Sec. 8873.104. PROHIBITION ON DISTRICT PRODUCTION OF
26 GROUNDWATER FOR PURPOSE OF SALE. The district may not produce
27 groundwater for the purpose of sale.

1 Sec. 8873.105. PROHIBITION ON DISTRICT METERING OF CERTAIN
2 WELLS. The district may not require that a meter be placed on a well
3 that is incapable of producing more than 25,000 gallons of
4 groundwater per day.

5 Sec. 8873.106. PROHIBITION ON DISTRICT USE OF EMINENT
6 DOMAIN POWER. The district may not exercise the power of eminent
7 domain.

8 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

9 Sec. 8873.151. LIMITATION ON TAXES. The district may not
10 impose ad valorem taxes at a rate that exceeds five cents on each
11 \$100 valuation of taxable property in the district.

12 Sec. 8873.152. PERMIT FEES REFUNDABLE. The district shall
13 refund a fee collected by the district that relates to an
14 application for or the issuance of a permit if:

15 (1) the permit relates to a well that is incapable of
16 producing more than 25,000 gallons of groundwater per day; and

17 (2) the applicant for the permit has complied with the
18 applicable law and district rules relating to the issuance of the
19 permit.

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

27 (b) The governor, one of the required recipients, has

1 submitted the notice and Act to the Texas Commission on
2 Environmental Quality.

3 (c) The Texas Commission on Environmental Quality has filed
4 its recommendations relating to this Act with the governor, the
5 lieutenant governor, and the speaker of the house of
6 representatives within the required time.

7 (d) All requirements of the constitution and laws of this
8 state and the rules and procedures of the legislature with respect
9 to the notice, introduction, and passage of this Act are fulfilled
10 and accomplished.

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