

By: Nichols

S.B. No. 1840

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Deep East Texas Groundwater
3 Conservation District; providing authority to issue bonds;
4 providing authority to impose assessments, fees, and taxes.

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

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

8 CHAPTER 8873. DEEP EAST TEXAS GROUNDWATER CONSERVATION DISTRICT

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 8873.001. DEFINITIONS. In this chapter:

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

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

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

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

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

23 (c) All of the land and other property included within the
24 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 Subsection (b), the initial boundaries of the district
18 are coextensive with the boundaries of Sabine, San Augustine, and
19 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 Sec. 8873.005. ADDITION OF ADJACENT COUNTY TO DISTRICT.

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

26 (b) If, after a hearing on the resolution, the board finds
27 that the addition of the county would benefit the district and the

1 county to be added, the board by resolution may approve the addition
2 of the county to the district.

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

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

9 (e) If a majority of the votes are cast in favor of the
10 addition of the county to the district, the county is added to the
11 district, and the district boundaries are adjusted accordingly. If
12 less than a majority of the votes are cast in favor of the addition
13 of the county to the district, the county is not added to the
14 district.

15 Sec. 8873.006. LANDOWNERS' RIGHTS. The rights of
16 landowners and their lessees and assigns in groundwater in the
17 district are recognized. Nothing in this chapter shall be
18 construed to deprive or divest the owners or their lessees and
19 assigns of their rights, subject to district rules.

20 Sec. 8873.007. REVIEW OF RESOLUTION REQUESTING
21 LEGISLATION. The board may not vote on a resolution requesting the
22 legislature to amend this chapter unless the board first submits
23 for review a copy of the proposed resolution to the commissioners
24 court of each county included in the district.

25 SUBCHAPTER A-1. TEMPORARY PROVISIONS

26 Sec. 8873.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a)
27 The district is initially governed by a board of seven temporary

1 directors appointed as provided by Section 8873.051(b).

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

7 (c) If a vacancy occurs on the temporary board, the
8 remaining temporary directors shall appoint a person to fill the
9 vacancy in a manner that meets the representational requirements of
10 Section 8873.051(b).

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

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

14 (1) the time the temporary directors become the
15 initial permanent directors under Section 8873.024; or

16 (2) the date this chapter expires under Section
17 8873.003.

18 Sec. 8873.022. ORGANIZATIONAL MEETING OF TEMPORARY
19 DIRECTORS. As soon as practicable after all the temporary
20 directors have qualified under Section 36.055, Water Code, a
21 majority of the temporary directors shall convene the
22 organizational meeting of the district at a location in the
23 district agreeable to a majority of the directors.

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

1 (b) Except as provided by this section, an election under
2 this section must be conducted as provided by Sections
3 36.017(b)-(i), Water Code, and the Election Code. Sections
4 36.017(d) and (h), Water Code, do not apply to an election under
5 this section.

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

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

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

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

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

23 Sec. 8873.024. INITIAL PERMANENT DIRECTORS; INITIAL TERMS.

24 (a) If the creation of the district is confirmed under Section
25 8873.023, the temporary directors from the counties that are
26 included in the district become the district's initial permanent
27 directors.

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

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

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

10 (c) If the voters of only two of the counties confirm the
11 creation of the district:

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

17 (2) the two directors appointed from each 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 judges of the confirming counties shall
22 jointly appoint a director as provided by Section 8873.051(c), who
23 serves an initial term expiring December 31, 2017.

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

26 (1) the four directors appointed by the county judges
27 of the two counties that do not confirm the creation of the district

1 and the director jointly appointed by the county judges of all three
2 counties are no longer eligible to serve as director and their terms
3 expire;

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

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

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

11 (B) may appoint two additional initial directors
12 who are residents of that county and who, if appointed, shall draw
13 lots to determine which director serves an initial term expiring
14 December 31, 2015, and which director serves an initial term
15 expiring December 31, 2017.

16 Sec. 8873.025. EXPIRATION OF SUBCHAPTER. This subchapter
17 expires September 1, 2016.

18 SUBCHAPTER B. BOARD OF DIRECTORS

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

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

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

27 (2) the county judges of the confirming counties shall

1 by majority vote jointly appoint one director, who shall serve as
2 board chair, from the district at large.

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

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

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

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

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

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

19 (e) Directors serve staggered four-year terms, with as near
20 as possible to one-half of the directors' terms expiring December
21 31 of each odd-numbered year.

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

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

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

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

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

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

8 Sec. 8873.054. VACANCIES. If a vacancy occurs on the board,
9 the appointing county judge or, if applicable, the appointing
10 county judges for the vacant position shall appoint a person to fill
11 the vacancy in a manner that meets the representational
12 requirements of Section 8873.051. Section 36.051(c), Water Code,
13 does not apply to the district.

14 Sec. 8873.055. COMPENSATION; REIMBURSEMENT. (a)
15 Notwithstanding Sections 36.060(a) and (d), Water Code, a director
16 may not receive compensation for performing the duties of director.

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

20 SUBCHAPTER C. POWERS AND DUTIES

21 Sec. 8873.101. GROUNDWATER CONSERVATION DISTRICT POWERS
22 AND DUTIES. Except as provided by this chapter, the district has
23 the powers and duties provided by the general law of this state,
24 including Chapter 36, Water Code, applicable to groundwater
25 conservation districts created under Section 59, Article XVI, Texas
26 Constitution.

27 Sec. 8873.102. PERMIT TO TRANSFER GROUNDWATER. (a) The

1 board by rule may:

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

4 (2) regulate the terms of a transfer of groundwater
5 out of the district.

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

8 Sec. 8873.103. PROHIBITION ON DISTRICT PURCHASE OF
9 GROUNDWATER RIGHTS. The district may not purchase groundwater
10 rights for any purpose.

11 Sec. 8873.104. PROHIBITION ON DISTRICT PRODUCTION OF
12 GROUNDWATER FOR PURPOSE OF SALE. The district may not produce
13 groundwater for the purpose of sale.

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

18 Sec. 8873.106. PROHIBITION ON DISTRICT USE OF EMINENT
19 DOMAIN POWER. The district may not exercise the power of eminent
20 domain.

21 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

22 Sec. 8873.151. LIMITATION ON TAXES. The district may not
23 impose ad valorem taxes at a rate that exceeds five cents on each
24 \$100 valuation of taxable property in the district.

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

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

3 (2) the applicant for the permit has complied with the
4 applicable law and district rules relating to the issuance of the
5 permit.

6 SECTION 2. (a) The legal notice of the intention to
7 introduce this Act, setting forth the general substance of this
8 Act, has been published as provided by law, and the notice and a
9 copy of this Act have been furnished to all persons, agencies,
10 officials, or entities to which they are required to be furnished
11 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
12 Government Code.

13 (b) The governor, one of the required recipients, has
14 submitted the notice and Act to the Texas Commission on
15 Environmental Quality.

16 (c) The Texas Commission on Environmental Quality has filed
17 its recommendations relating to this Act with the governor, the
18 lieutenant governor, and the speaker of the house of
19 representatives within the required time.

20 (d) All requirements of the constitution and laws of this
21 state and the rules and procedures of the legislature with respect
22 to the notice, introduction, and passage of this Act are fulfilled
23 and accomplished.

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

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1 Act takes effect September 1, 2013.