

1-1 By: Nichols S.B. No. 1840  
 1-2 (In the Senate - Filed March 18, 2013; March 20, 2013, read  
 1-3 first time and referred to Committee on Natural Resources;  
 1-4 April 15, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 15, 2013,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16			X	
1-17	X			
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1840 By: Nichols

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to the creation of the Deep East Texas Groundwater  
 1-24 Conservation District; providing authority to issue bonds;  
 1-25 providing authority to impose assessments, fees, and taxes.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Subtitle H, Title 6, Special District Local Laws  
 1-28 Code, is amended by adding Chapter 8873 to read as follows:

1-29 CHAPTER 8873. DEEP EAST TEXAS GROUNDWATER CONSERVATION DISTRICT

1-30 SUBCHAPTER A. GENERAL PROVISIONS

1-31 Sec. 8873.001. DEFINITIONS. In this chapter:

1-32 (1) "Board" means the board of directors of the  
 1-33 district.

1-34 (2) "Director" means a member of the board.

1-35 (3) "District" means the Deep East Texas Groundwater  
 1-36 Conservation District.

1-37 Sec. 8873.002. NATURE OF DISTRICT; FINDINGS. (a) The  
 1-38 district is a groundwater conservation district in Sabine, San  
 1-39 Augustine, and Shelby Counties created under and essential to  
 1-40 accomplish the purposes of Section 59, Article XVI, Texas  
 1-41 Constitution.

1-42 (b) The district is created to serve a public use and  
 1-43 benefit.

1-44 (c) All of the land and other property included within the  
 1-45 boundaries of the district will be benefited by the works and  
 1-46 projects that are to be accomplished by the district under powers  
 1-47 conferred by this chapter and by Chapter 36, Water Code.

1-48 Sec. 8873.003. CONFIRMATION ELECTION REQUIRED. If the  
 1-49 creation of the district is not confirmed at a confirmation  
 1-50 election held under Section 8873.023 before September 1, 2015:

1-51 (1) the district is dissolved on September 1, 2015,  
 1-52 except that:

1-53 (A) any debts incurred shall be paid;

1-54 (B) any assets that remain after the payment of  
 1-55 debts shall be transferred to each county in proportion to the  
 1-56 contribution of money made; and

1-57 (C) the organization of the district shall be  
 1-58 maintained until all debts are paid and remaining assets are  
 1-59 transferred; and

1-60 (2) this chapter expires September 1, 2017.

2-1 Sec. 8873.004. INITIAL DISTRICT TERRITORY. (a) Except as  
2-2 provided by Subsections (b) and (c), the initial boundaries of the  
2-3 district are coextensive with the boundaries of Sabine, San  
2-4 Augustine, and Shelby Counties.

2-5 (b) If the creation of the district is not confirmed by the  
2-6 voters of a county at an election held under Section 8873.023, that  
2-7 county is not included in the district.

2-8 (c) If a majority of the voters of the City of Center do not  
2-9 vote at an election under Section 8873.024 in favor of the inclusion  
2-10 in the district of the territory of the city, as that territory  
2-11 exists on the date of the election, the territory of the City of  
2-12 Center is not included in the district.

2-13 Sec. 8873.005. ADDITION OF ADJACENT COUNTY TO DISTRICT.

2-14 (a) An adjacent county may petition to join the district by  
2-15 resolution of the county commissioners court.

2-16 (b) If, after a hearing on the resolution, the board finds  
2-17 that the addition of the county would benefit the district and the  
2-18 county to be added, the board by resolution may approve the addition  
2-19 of the county to the district.

2-20 (c) The addition of a county under this section is not final  
2-21 until approved by the voters in the county to be added at an  
2-22 election held for that purpose.

2-23 (d) The ballot for the election shall be printed to permit  
2-24 voting for or against the proposition: "The addition of (county's  
2-25 name) to the Deep East Texas Groundwater Conservation District."

2-26 (e) If a majority of the votes are cast in favor of the  
2-27 addition of the county to the district, the county is added to the  
2-28 district, and the district boundaries are adjusted accordingly. If  
2-29 less than a majority of the votes are cast in favor of the addition  
2-30 of the county to the district, the county is not added to the  
2-31 district.

2-32 Sec. 8873.006. LANDOWNERS' RIGHTS. The rights of  
2-33 landowners and their lessees and assigns in groundwater in the  
2-34 district are recognized. Nothing in this chapter shall be  
2-35 construed to deprive or divest the owners or their lessees and  
2-36 assigns of their rights, subject to district rules.

2-37 Sec. 8873.007. REVIEW OF RESOLUTION REQUESTING  
2-38 LEGISLATION. The board may not vote on a resolution requesting the  
2-39 legislature to amend this chapter unless the board first submits  
2-40 for review a copy of the proposed resolution to the commissioners  
2-41 court of each county included in the district.

SUBCHAPTER A-1. TEMPORARY PROVISIONS

2-43 Sec. 8873.021. APPOINTMENT OF TEMPORARY DIRECTORS.

2-44 (a) The district is initially governed by a board of seven  
2-45 temporary directors appointed as provided by Section 8873.051(b).

2-46 (b) Temporary directors shall be appointed not later than  
2-47 the 90th day after the effective date of the Act enacting this  
2-48 chapter. If after the 90th day fewer than seven temporary directors  
2-49 have been appointed, each unfilled position shall be considered a  
2-50 vacancy and filled in accordance with Subsection (c).

2-51 (c) If a vacancy occurs on the temporary board, the  
2-52 remaining temporary directors shall appoint a person to fill the  
2-53 vacancy in a manner that meets the representational requirements of  
2-54 Section 8873.051(b).

2-55 (d) Each temporary director must qualify to serve as a  
2-56 director in the manner provided by Section 36.055, Water Code.

2-57 (e) Temporary directors serve until the earlier of:

2-58 (1) the time the temporary directors become the  
2-59 initial permanent directors under Section 8873.025; or

2-60 (2) the date this chapter expires under Section  
2-61 8873.003.

2-62 Sec. 8873.022. ORGANIZATIONAL MEETING OF TEMPORARY  
2-63 DIRECTORS. As soon as practicable after all the temporary  
2-64 directors have qualified under Section 36.055, Water Code, a  
2-65 majority of the temporary directors shall convene the  
2-66 organizational meeting of the district at a location in the  
2-67 district agreeable to a majority of the directors.

2-68 Sec. 8873.023. CONFIRMATION ELECTION. (a) The temporary  
2-69 directors shall hold an election on the same date in Sabine, San

3-1 Augustine, and Shelby Counties and in the City of Center to confirm  
 3-2 the creation of the district.

3-3 (b) Except as provided by this section, an election under  
 3-4 this section must be conducted as provided by Sections  
 3-5 36.017(b)-(i), Water Code, and the Election Code. Sections  
 3-6 36.017(d) and (h), Water Code, do not apply to an election under  
 3-7 this section.

3-8 (c) The ballot for the election must be printed to provide  
 3-9 for voting for or against the proposition: "The creation of the Deep  
 3-10 East Texas Groundwater Conservation District and the levy of an ad  
 3-11 valorem tax in the district at a rate not to exceed five cents for  
 3-12 each \$100 of assessed valuation."

3-13 (d) If the proposition receives a favorable vote of a  
 3-14 majority of the voters voting in the election in two or more  
 3-15 counties, the creation of the district is confirmed.

3-16 (e) If the proposition receives a favorable vote of a  
 3-17 majority of the voters voting in the election in only one county,  
 3-18 the creation of the district is not confirmed unless the  
 3-19 commissioners court of that county votes to confirm the creation of  
 3-20 the district. The commissioners court must:

3-21 (1) hold two public hearings on the matter before  
 3-22 voting on the matter; and

3-23 (2) vote to confirm the creation of the district not  
 3-24 later than the 60th day after the date of the election.

3-25 Sec. 8873.024. MUNICIPAL ELECTION. (a) Notwithstanding  
 3-26 Section 36.018, Water Code, a separate voting district shall be  
 3-27 established in the City of Center to determine whether the  
 3-28 municipality is to be included in the district.

3-29 (b) The territory in the City of Center shall be included in  
 3-30 the district only if a majority of the voters in the municipal  
 3-31 territory of the City of Center vote in favor of the municipality's  
 3-32 inclusion in the district.

3-33 Sec. 8873.025. INITIAL PERMANENT DIRECTORS; INITIAL TERMS.  
 3-34 (a) If the creation of the district is confirmed under Section  
 3-35 8873.023, the temporary directors from the counties that are  
 3-36 included in the district become the district's initial permanent  
 3-37 directors.

3-38 (b) If the voters of Sabine, San Augustine, and Shelby  
 3-39 Counties confirm the creation of the district at an election held  
 3-40 under Section 8873.023:

3-41 (1) the two directors appointed from each county shall  
 3-42 draw lots to determine which director serves an initial term  
 3-43 expiring December 31, 2015, and which director serves an initial  
 3-44 term expiring December 31, 2017; and

3-45 (2) the jointly appointed director serves an initial  
 3-46 term expiring December 31, 2017.

3-47 (c) If the voters of only two of the counties confirm the  
 3-48 creation of the district:

3-49 (1) the two directors appointed by the county judge of  
 3-50 the county that does not confirm the creation of the district and  
 3-51 the director jointly appointed by the county judges of all three  
 3-52 counties are no longer eligible to serve as directors and their  
 3-53 terms expire;

3-54 (2) the two directors appointed from each confirming  
 3-55 county shall draw lots to determine which director serves an  
 3-56 initial term expiring December 31, 2015, and which director serves  
 3-57 an initial term expiring December 31, 2017; and

3-58 (3) the county judges of the confirming counties shall  
 3-59 jointly appoint a director as provided by Section 8873.051(c), who  
 3-60 serves an initial term expiring December 31, 2017.

3-61 (d) If the voters and the commissioners court of one county  
 3-62 confirm the creation of the district:

3-63 (1) the four directors appointed by the county judges  
 3-64 of the two counties that do not confirm the creation of the district  
 3-65 and the director jointly appointed by the county judges of all three  
 3-66 counties are no longer eligible to serve as director and their terms  
 3-67 expire;

3-68 (2) the two directors appointed from the confirming  
 3-69 county shall draw lots to determine which director serves an

4-1 initial term expiring December 31, 2015, and which director serves  
4-2 an initial term expiring December 31, 2017; and

4-3 (3) the county judge of the confirming county:  
4-4 (A) shall appoint one initial director with a  
4-5 term expiring December 31, 2017, as board chair; and

4-6 (B) may appoint two additional initial directors  
4-7 who are residents of that county and who, if appointed, shall draw  
4-8 lots to determine which director serves an initial term expiring  
4-9 December 31, 2015, and which director serves an initial term  
4-10 expiring December 31, 2017.

4-11 Sec. 8873.026. EXPIRATION OF SUBCHAPTER. This subchapter  
4-12 expires September 1, 2016.

4-13 SUBCHAPTER B. BOARD OF DIRECTORS

4-14 Sec. 8873.051. GOVERNING BODY; TERMS. (a) The district is  
4-15 governed by a board of seven, five, or three directors appointed as  
4-16 provided by this section.

4-17 (b) If the voters in Sabine, San Augustine, and Shelby  
4-18 Counties confirm the creation of the district, seven directors  
4-19 shall be appointed as follows:

4-20 (1) the county judge of each confirming county shall  
4-21 appoint two directors who are residents of that county; and

4-22 (2) the county judges of the confirming counties shall  
4-23 by majority vote jointly appoint one director, who shall serve as  
4-24 board chair, from the district at large.

4-25 (c) If the voters in only two of the counties confirm the  
4-26 creation of the district, five directors shall be appointed as  
4-27 follows:

4-28 (1) the county judge of each confirming county shall  
4-29 appoint two directors who are residents of that county; and

4-30 (2) the county judges of the confirming counties shall  
4-31 jointly appoint one director, who shall serve as board chair, from  
4-32 the district at large.

4-33 (d) Notwithstanding Section 36.051(a), Water Code, if the  
4-34 voters and the commissioners court of only one county confirm the  
4-35 creation of the district, the county judge of that county:

4-36 (1) shall appoint three directors who are residents of  
4-37 that county and designate one of those directors as board chair; and

4-38 (2) may appoint two directors, in addition to the  
4-39 three directors appointed under Subdivision (1), who are residents  
4-40 of that county.

4-41 (e) Directors serve staggered four-year terms, with as near  
4-42 as possible to one-half of the directors' terms expiring December  
4-43 31 of each odd-numbered year.

4-44 (f) A director may not serve more than two terms.

4-45 Sec. 8873.052. CHANGE IN COMPOSITION; ADDITIONAL COUNTY.  
4-46 If a county is added to the district, the board may change the  
4-47 number of directors so that:

4-48 (1) an equal number of directors are appointed by the  
4-49 county judge of each county in the district;

4-50 (2) one director is appointed jointly by the county  
4-51 judges of each county in the district; and

4-52 (3) the board is composed of an odd number of  
4-53 directors.

4-54 Sec. 8873.053. QUALIFICATION OF DIRECTORS. Each director  
4-55 must qualify to serve as a director in the manner provided by  
4-56 Section 36.055, Water Code.

4-57 Sec. 8873.054. VACANCIES. If a vacancy occurs on the board,  
4-58 the appointing county judge or, if applicable, the appointing  
4-59 county judges for the vacant position shall appoint a person to fill  
4-60 the vacancy in a manner that meets the representational  
4-61 requirements of Section 8873.051. Section 36.051(c), Water Code,  
4-62 does not apply to the district.

4-63 Sec. 8873.055. COMPENSATION; REIMBURSEMENT.  
4-64 (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a  
4-65 director may not receive compensation for performing the duties of  
4-66 director.

4-67 (b) A director is entitled to reimbursement of actual  
4-68 expenses reasonably and necessarily incurred while engaging in  
4-69 activities on behalf of the district.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8873.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as 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. 8873.102. PERMIT TO TRANSFER GROUNDWATER. (a) The board by rule may:

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

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

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

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

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

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

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

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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

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

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

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

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 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.

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