

By: Workman

H.B. No. 922

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Southwestern Travis County
3 Groundwater Conservation District; providing authority to issue
4 bonds; providing authority to impose fees.

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

6 SECTION 1. The legislature finds that:

7 (1) creation of the Southwestern Travis County
8 Groundwater Conservation District:

9 (A) is consistent with the state's preferred
10 method of groundwater management;

11 (B) will protect property rights, balance the
12 development and conservation of groundwater with the needs of this
13 state, and use the best available science in the area of groundwater
14 through rules developed, adopted, and promulgated by the district
15 in accordance with the provisions of Chapter 8871, Special District
16 Local Laws Code, as added by this Act; and

17 (C) will be a benefit to the land in the district
18 and a public benefit and utility;

19 (2) the district is created to:

20 (A) protect the interests of private property
21 ownership while balancing the interests of all property owners in
22 the district;

23 (B) manage groundwater resources; and

24 (C) protect the groundwater in the district;

1 (3) although a property owner of land in the district
2 is not entitled to an equal amount of water as another property
3 owner of land in the district, a property owner does have a vested
4 ownership interest in the groundwater beneath the owner's property,
5 and the district shall recognize that ownership interest; and

6 (4) the Southwestern Travis County Groundwater
7 Conservation District is not created to prohibit or restrict
8 development of private property in the district.

9 SECTION 2. Subtitle H, Title 6, Special District Local Laws
10 Code, is amended by adding Chapter 8871 to read as follows:

11 CHAPTER 8871. SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION
12 DISTRICT

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Sec. 8871.001. DEFINITIONS. In this chapter:

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

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

18 (3) "Director" means a board member.

19 (4) "District" means the Southwestern Travis County
20 Groundwater Conservation District.

21 (5) "Executive director" means the executive director
22 of the Texas Commission on Environmental Quality.

23 Sec. 8871.002. NATURE OF DISTRICT. The district is a
24 groundwater conservation district in Travis County created under
25 and essential to accomplish the purposes of Section 59, Article
26 XVI, Texas Constitution.

27 Sec. 8871.003. FINDINGS OF PUBLIC USE AND BENEFIT. (a) The

1 district is created to serve a public use and benefit.

2 (b) All land and other property included in the district
3 will benefit from the works and projects accomplished by the
4 district under the powers conferred by Section 59, Article XVI,
5 Texas Constitution.

6 Sec. 8871.004. INITIAL DISTRICT TERRITORY. (a) The
7 district is initially composed of the territory described by
8 Section 3 of the Act creating this chapter.

9 (b) The boundaries and field notes contained in Section 3 of
10 the Act creating this chapter form a closure. A mistake made in the
11 field notes or in copying the field notes in the legislative process
12 does not affect the district's:

13 (1) organization, existence, or validity;

14 (2) right to issue any type of bond for the purposes
15 for which the district is created or to pay the principal of and
16 interest on a bond; or

17 (3) legality or operation.

18 Sec. 8871.005. CONFIRMATION ELECTION NOT REQUIRED. An
19 election to confirm the creation of the district is not required.

20 SUBCHAPTER B. TEMPORARY AND INITIAL DIRECTORS

21 Sec. 8871.021. APPOINTMENT OF TEMPORARY DIRECTORS;
22 VACANCIES; TERMS. (a) Seven persons who reside in the district
23 shall be appointed as temporary directors not later than the 90th
24 day after the effective date of the Act creating this chapter as
25 follows:

26 (1) the county judge of Travis County shall appoint
27 one temporary director;

1 (2) the county commissioner for the county
2 commissioners precinct in which the district is located shall
3 appoint two temporary directors;

4 (3) the state representative who represents the house
5 district in which the district is principally located shall appoint
6 two temporary directors; and

7 (4) the state senator who represents the senate
8 district in which the district is principally located shall appoint
9 two temporary directors.

10 (b) If a temporary director fails to qualify for office or a
11 vacancy occurs on the temporary board, the remaining temporary
12 directors shall appoint a person to fill the vacancy. If at any
13 time there are fewer than four temporary directors, the state
14 representative under Subsection (a)(3) shall appoint the necessary
15 number of persons to fill all vacancies on the board.

16 (c) Temporary directors serve until the date initial
17 directors are elected at an election held under Section 8871.024.

18 Sec. 8871.022. ORGANIZATIONAL MEETING. (a) Not later than
19 the 45th day after the date on which the seventh temporary director
20 is appointed under Section 8871.021, the temporary directors shall
21 hold the organizational meeting of the district.

22 (b) The temporary directors shall select from among
23 themselves a president, a vice president, and a secretary.

24 Sec. 8871.023. AUTHORITY OF TEMPORARY DIRECTORS. (a)
25 Except as provided by Subsections (c) and (d) or as otherwise
26 provided by this subchapter, the temporary directors of the
27 district have the same permitting and general management powers as

1 those provided for initial and permanent directors under this
2 chapter and Chapter 36, Water Code.

3 (b) The temporary directors or their designees have the
4 authority to enter any public or private property located in the
5 district to inspect a water well that is not exempt under Section
6 8871.103, as provided by Section 36.123, Water Code.

7 (c) Except as provided by Section 8871.024, the temporary
8 directors do not have the authority granted by the following
9 provisions of Chapter 36, Water Code:

- 10 (1) Sections 36.017, 36.019, 36.020, and 36.059;
11 (2) Sections 36.105, 36.1071, 36.1072, 36.1073, and
12 36.108;
13 (3) Sections 36.171-36.181;
14 (4) Sections 36.201-36.204; and
15 (5) Subchapters J and K.

16 (d) The temporary directors may regulate the transfer of
17 groundwater out of the district as provided by Section 36.122,
18 Water Code, but may not prohibit the transfer of groundwater out of
19 the district.

20 Sec. 8871.024. INITIAL DIRECTORS' ELECTION. (a) The
21 temporary directors shall order an election in the district to be
22 held not later than the uniform election date in November 2019 to
23 elect the initial directors.

24 (b) At the initial directors' election, the temporary board
25 shall have placed on the ballot the names of the candidates who are
26 eligible under Section 8871.051 for each of the seven positions on
27 the board.

1 (c) Section 41.001(a), Election Code, applies to an
2 election held under this section.

3 (d) Except as provided by this section, the initial
4 directors' election must be conducted as provided by the Election
5 Code and Sections 36.017(b), (c), and (e), Water Code.

6 Sec. 8871.025. INITIAL DIRECTORS. (a) Promptly after the
7 election has been held under Section 8871.024 and the votes have
8 been canvassed, the temporary directors shall:

9 (1) declare for each board position the person who
10 receives the most votes for that position to be elected as the
11 initial director for that position; and

12 (2) include the results of the initial directors'
13 election in the district's election report to the commission.

14 (b) The initial directors shall draw lots to determine which
15 three initial directors serve two-year terms and which four initial
16 directors serve four-year terms.

17 SUBCHAPTER C. BOARD OF DIRECTORS

18 Sec. 8871.051. GOVERNING BODY; TERMS. (a) The district is
19 governed by a board of seven directors.

20 (b) Directors elected after the election held under Section
21 8871.024 serve four-year terms.

22 (c) The directors are elected as follows:

23 (1) one director must reside in the corporate limits
24 of the City of Bee Cave and be elected by voters residing in the City
25 of Bee Cave;

26 (2) one director must reside in the corporate limits
27 of the City of Lakeway or Village of the Hills and be elected by

1 voters residing in the City of Lakeway and Village of the Hills;

2 (3) one director must reside in the corporate limits
3 of the City of West Lake Hills and be elected by voters residing in
4 the City of West Lake Hills; and

5 (4) four directors must:

6 (A) reside inside the district and outside the
7 corporate limits of the City of Bee Cave, City of Lakeway, Village
8 of the Hills, and City of West Lake Hills; and

9 (B) be elected by voters residing inside the
10 district and outside the corporate limits of the City of Bee Cave,
11 City of Lakeway, Village of the Hills, and City of West Lake Hills.

12 SUBCHAPTER D. POWERS AND DUTIES

13 Sec. 8871.101. GROUNDWATER CONSERVATION DISTRICT POWERS
14 AND DUTIES. Except as otherwise provided by this chapter, the
15 district has the powers and duties provided by the general law of
16 this state, including Chapter 36, Water Code, applicable to
17 groundwater conservation districts created under Section 59,
18 Article XVI, Texas Constitution.

19 Sec. 8871.102. AQUIFER STORAGE AND RECOVERY PROJECTS. The
20 district may implement and develop aquifer storage and recovery
21 projects.

22 Sec. 8871.103. EXEMPT WELLS. (a) Groundwater withdrawals
23 from the following wells may not be regulated, permitted, or
24 metered by the district:

25 (1) a well used for domestic use by a single private
26 residential household and incapable of producing more than 10,000
27 gallons per day; and

1 (2) a well used for conventional farming and ranching
2 activities, including intensive operations such as aquaculture,
3 livestock feedlots, or poultry operations.

4 (b) The district may not charge or collect a well
5 construction fee for a well described by Subsection (a)(2).

6 (c) A well used for dewatering and monitoring in the
7 production of coal or lignite is exempt from permit requirements,
8 regulations, and fees imposed by the district.

9 Sec. 8871.104. PERMIT REQUIRED. A well owner must obtain a
10 permit and pay any required fees, including a well construction
11 fee, before using any groundwater withdrawn from a well for
12 purposes other than those exempted by Section 8871.103.

13 Sec. 8871.105. ACCESS TO PROPERTY. (a) An employee or
14 agent of the district:

15 (1) may not enter property to inspect an exempt well
16 without the property owner's permission; and

17 (2) may request that the commission obtain the
18 permission of the property owner to enter the owner's property to
19 inspect an exempt well.

20 (b) Subject to Subsection (c), an employee or agent of the
21 commission is entitled to enter public or private property in the
22 district at any reasonable time to:

23 (1) inspect an exempt well;

24 (2) inspect and investigate conditions relating to the
25 quality of water in the state; and

26 (3) monitor compliance with any rule, regulation,
27 permit, or other order of the district or the commission.

1 (c) An employee or agent of the commission shall obtain the
2 permission of the property owner before entering public or private
3 property.

4 (d) An employee or agent of the commission is entitled to
5 enter public or private property in the district at any reasonable
6 time without obtaining the permission of the property owner:

7 (1) if the property owner is not responsive to the
8 commission's attempt to obtain the owner's permission; or

9 (2) to remove or remediate a condition related to the
10 quality of water in the state if there is an immediate danger to
11 public health or the environment.

12 (e) If any employee or agent of the commission is refused
13 the right to enter public or private property in the district under
14 this section, the executive director may seek a court order from a
15 district court authorizing the commission to enter the land.

16 (f) An employee or agent who enters private property under
17 this section shall:

18 (1) observe the property's rules and regulations, if
19 any, concerning safety, internal security, and fire protection;

20 (2) notify management or a person in charge of the
21 presence of the employee or agent; and

22 (3) exhibit proper credentials.

23 Sec. 8871.106. NO EMINENT DOMAIN POWER. The district may
24 not exercise the power of eminent domain.

25 SUBCHAPTER E. FINANCIAL PROVISIONS

26 Sec. 8871.151. WELL CONSTRUCTION FEE. The district may
27 charge and collect a new well construction fee not to exceed \$1,000

1 for a new well.

2 Sec. 8871.152. PERMIT RENEWAL APPLICATION FEE. The
3 district may charge and collect a permit renewal application fee
4 not to exceed \$400.

5 Sec. 8871.153. SERVICE CONNECTION FEE. (a) This section
6 does not apply to a water utility that has surface water as its sole
7 source of water.

8 (b) The district may levy and collect a water utility
9 service connection fee not to exceed \$1,000 for each new water
10 service connection made after September 1, 2017.

11 Sec. 8871.154. PRODUCTION FEE. The district may impose
12 reasonable production fees on each well that is not exempt from
13 permitting under Section 8871.103 based on the amount of water
14 actually withdrawn from the well. The district may not impose a
15 production fee under this section in an amount greater than 10 cents
16 per thousand gallons.

17 Sec. 8871.155. TAXES AND OTHER FEES PROHIBITED. The
18 district may not:

19 (1) impose a tax; or

20 (2) assess or collect any fees except as authorized by
21 Section 8871.151, 8871.152, 8871.153, or 8871.154.

22 SECTION 3. The Southwestern Travis County Groundwater
23 Conservation District initially includes all the territory
24 contained in the following area:

25 THE TERRITORY OF THE SOUTHWEST TRAVIS COUNTY PORTION OF THE
26 HILL COUNTRY PRIORITY GROUNDWATER MANAGEMENT AREA - AS DESCRIBED BY
27 2010 TCEQ REPORT; "The southwestern Travis territory is located in

1 the southwestern quarter of Travis County. The southwestern Travis
2 territory is bound to the west by Blanco and Burnet counties,
3 southwest by Hays County, and southeast by the northwestern
4 boundary of the Barton Springs/Edwards Aquifer Conservation
5 District (BS/EACD). The northern boundary of the southwestern
6 Travis territory is the Colorado River (Lake Travis, Lake Austin,
7 and Lady Bird Lake)."

8 SECTION 4. (a) The legal notice of the intention to
9 introduce this Act, setting forth the general substance of this
10 Act, has been published as provided by law, and the notice and a
11 copy of this Act have been furnished to all persons, agencies,
12 officials, or entities to which they are required to be furnished
13 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
14 Government Code.

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

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

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

26 SECTION 5. This Act takes effect September 1, 2017.