

By: Staples

S.B. No. 1888

Substitute the following for S.B. No. 1888:

By: Hardcastle

C.S.S.B. No. 1888

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Southeast Texas Groundwater Conservation District.

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

SECTION 1. DEFINITIONS. In this Act:

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

(2) "District" means the Southeast Texas Groundwater Conservation District.

SECTION 2. CREATION. (a) A groundwater conservation district, to be known as the Southeast Texas Groundwater Conservation District, is created in Jasper and Newton counties, subject to approval at a confirmation election under Section 13 of this Act.

(b) The district is a governmental agency and a political subdivision of this state.

SECTION 3. AUTHORITY FOR CREATION. The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

SECTION 5. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Jasper and Newton counties, Texas.

SECTION 6. GENERAL POWERS. Except as provided by this Act, the district has all of the rights, powers, privileges, authority, functions, 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.

SECTION 7. ADDITIONAL POWERS; LIMITATIONS ON POWERS. (a) The district by rule may require a person to obtain a permit from the district for the transfer of groundwater out of the district consistent with Section 36.122, Water Code, and may regulate the terms on which a permit holder under those rules may conduct the transfer.

(b) The district may not require a permit for a well incapable of producing more than 25,000 gallons of groundwater a

day.

- (c) The district may not impose a tax.
- (d) The district by rule may impose reasonable fees on each

well:

- (1) for which a permit is issued by the district; and
- (2) that is not exempt from regulation by the

district.

- (e) A fee imposed under Subsection (d) of this section:

- (1) must be based on the amount of water to be withdrawn from the well; and
- (2) may not exceed one cent per thousand gallons of groundwater withdrawn for any purpose.

(f) A well meeting the criteria established under Section 36.117, Water Code, including a well used for dewatering and monitoring in the production of coal or lignite, is exempt from permit requirements, regulations, and fees imposed by the district.

- (g) The district may not:

- (1) exercise the power of eminent domain;
- (2) issue any bonds or other obligations that pledge revenue derived from taxation by the district; or
- (3) purchase groundwater rights unless the purchased rights are acquired for conservation purposes and are permanently held in trust not to be produced.

SECTION 8. APPLICABILITY *OF* OTHER LAW. (a) This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

- (b) Chapter 49, Water Code, does not apply to the district.

SECTION 9. BOARD *OF* DIRECTORS. (a) Except as provided by Section 10(e) of this Act, the district is governed by a board of seven directors. Directors are appointed as provided by Section 10 of this Act. When a county is added to the district, the board may change the number of directors so that: an equal number of directors are appointed from each county and one director is appointed jointly by the counties.

(b) Except for the initial term, all directors serve three-year terms. The terms of two initial directors expire on December 31, 2006. The terms of two initial directors expire on December 31, 2005. The terms of the three remaining directors, including the term of the initial director who will serve as the joint two-county representative, expire on December 31, 2004.

(c) In accordance with Subsection (b) of this section, the three initial directors from each county shall draw lots to determine their terms.

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

- (e) Directors may serve consecutive terms.

(f) If there is a vacancy on the board, the governing body of the entity that appointed the director who vacated the office shall appoint a director to serve the remainder of the term. The board shall adopt rules or bylaws to establish when a vacancy has occurred.

(g) Directors are not entitled to compensation for serving as a director but may be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.

(h) A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

SECTION 10. APPOINTMENT *OF* DIRECTORS. (a) The Jasper County Commissioners Court shall appoint two directors. One director shall represent rural water utilities and small municipal water supply interests, one director shall represent the large

industrial groundwater supply interests of the county and large municipal utilities.

(b) The Newton County Commissioners Court shall appoint two directors. One director shall represent rural water utilities and small municipal water supply interests, one director shall represent the forestry or agricultural groundwater supply interests of the county.

(c) The Jasper County Commissioners Court and the Newton County Commissioners Court shall jointly appoint one director to represent the forestry, agricultural, or landowner groundwater supply interests of both counties. The jointly appointed director shall serve as the presiding officer of the board.

(d) The Newton City Council shall appoint one director.

(e) The Jasper City Council shall appoint one director.

(f) A director is not disqualified from serving because the director is an employee, manager, director, or officer of a groundwater producer that is or may be regulated by the district.

(g) If the voters of only one county confirm the establishment of the district at an election under Section 13 of this Act:

(1) the directors appointed from the county whose voters did not confirm the establishment of the district and the director appointed jointly by the two commissioners courts are not eligible to serve as directors of the district; and

(2) the commissioners court of the county whose voters confirmed establishment of the district shall appoint two additional directors, at least one of whom shall represent the forestry, agricultural, or landowner groundwater supply interests of the county.

SECTION 11. ORGANIZATIONAL MEETING. (a) As soon as practicable after all initial directors are appointed, a majority of the directors shall convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors.

(b) If no location can be agreed on, the organizational meeting of the directors shall be at the Jasper County Courthouse.

(c) The initial directors shall take office at the organizational meeting under this section.

SECTION 12. LANDOWNERS' RIGHTS. The rights of landowners and their lessees and assigns in groundwater in the district are recognized. Nothing in this Act shall be construed to deprive or divest the owners or their lessees and assigns of their rights, subject to district rules.

SECTION 13. CONFIRMATION ELECTION. (a) The initial board shall hold an election on the same date in each county in the district to confirm establishment of the district.

(b) Except as provided by this section, a confirmation election must be conducted in the manner provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) If the majority of qualified voters in a county who vote in the election vote to confirm the establishment of the district, that county is included in the district. If the majority of qualified voters in a county who vote in the election vote against confirming the establishment of the district, that county is excluded from the district.

(d) If the establishment of the district is not confirmed by an election held under this section before the second anniversary of the effective date of this Act, the district is dissolved and this Act expires on that second anniversary date.

SECTION 14. ADDITION OF OTHER COUNTIES TO DISTRICT. (a) An adjacent county that wishes to join the district shall petition the district by resolution of the commissioners court of the county.

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

(c) The addition of a county to the district under this section is not final until ratified by a majority vote of the qualified voters in the county to be added voting in an election held for that purpose.

(d) The ballot for the election shall be printed to provide for voting for or against the proposition: "The inclusion of (name of county) County in the Southeast Texas Groundwater Conservation District."

(e) The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and the qualifications of the voters are governed by the Election Code.

SECTION 15. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

(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 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, lieutenant governor, and 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 16. EFFECTIVE DATE. 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, 2003.