

AN ACT

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

(2) "Designated management area" means an area designated as a management area under Section 35.004, Water Code.

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

(4) "District" means the Rusk County Groundwater Conservation District.

SECTION 2. CREATION. (a) A groundwater conservation district, to be known as the Rusk County Groundwater Conservation District, is created in Rusk County, subject to approval at a confirmation election under Section 10 of this Act.

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

SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(c) The district is created to:

(1) provide for the protection, recharging, and prevention of waste of groundwater in the Rusk County area;

(2) control subsidence caused by the withdrawal of water from the groundwater reservoirs in that area; and

(3) regulate the transport of groundwater out of the boundaries of the district.

(d) 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 4. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Rusk County, Texas.

SECTION 5. APPLICABILITY OF OTHER LAW. This Act prevails over any

provision of general law that is in conflict or inconsistent with this Act, including any provision of Chapter 36, Water Code.

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of nine directors.

(b) Temporary directors are appointed under Section 7 of this Act and serve until initial directors are elected under Section 10 of this Act.

(c) Four of the initial directors serve until the first election of permanent directors under Section 11 of this Act. Five of the initial directors serve until the second election of permanent directors under Section 11 of this Act.

(d) Permanent directors serve staggered four-year terms.

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

(f) A director may serve consecutive terms.

(g) If there is a vacancy in the office of temporary director, the Rusk County Commissioners Court shall appoint a person to fill the vacancy in accordance with the appointment method under Section 7 of this Act.

(h) A director is entitled to receive fees of office of not more than \$50 a day for each day the director actually spends performing the duties of a director. The fees of office may not exceed \$3,000 a year.

(i) The board may authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the board.

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

SECTION 7. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of this Act:

(1) the Rusk County Commissioners Court shall appoint two temporary directors from each of the four commissioners precincts to represent the precincts in which they reside; and

(2) the county judge of Rusk County shall appoint one temporary director who resides in the district to represent the district at large.

(b) Of the temporary directors, at least one must represent the interests of rural water suppliers in the district, one must represent agricultural interests in the district, and one must represent industrial interests in the district.

SECTION 8. ORGANIZATIONAL MEETING. As soon as practicable after all the temporary directors have qualified according to Section 6(e) of this Act, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If no location can be agreed upon, the organizational meeting shall be at the Rusk County Courthouse.

SECTION 9. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the voters of the entire district, and two directors shall be elected from each county commissioners precinct by the voters of that precinct.

(c) Except as provided by Subsection (e) of this section, to be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

- (1) the precinct that the person seeks to represent; or
- (2) that the person seeks to represent the district at large.

(e) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall call and hold an election to confirm the creation of the district.

(b) At the confirmation and initial directors' election, the temporary directors shall have placed on the ballot the name of any candidate filing for an initial director's position and blank spaces to write in the names of other persons. A temporary director who is eligible to be a candidate under Section 9 of this Act may file for a position as an initial director.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code.

(e) The two initial directors elected to represent each commissioners precinct shall draw lots to decide which of the two directors shall serve a term lasting until the first regularly scheduled election of directors under Section 11 of this Act, and which of the two directors shall serve until the second regularly scheduled election of directors. The at-large director shall serve until the second regularly scheduled election of directors.

(f) If the establishment of the district is not confirmed at an election held under this section before September 1, 2005, the district is dissolved, except that:

- (1) any debts incurred shall be paid;
- (2) any assets that remain after the payment of debts shall be transferred to Rusk

County; and

(3) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred.

SECTION 11. ELECTION OF DIRECTORS.

(b) On the uniform election date in November of each even-numbered year, the appropriate number of directors shall be elected.

SECTION 12. GENERAL POWERS. Except as otherwise 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 13. LIMITATION ON TAXATION. The district may not impose an ad valorem tax at a rate that exceeds one-half cent on each \$100 of assessed valuation of taxable property in the district.

SECTION 14. FEES. (a) The board may by rule impose reasonable fees on each well:

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

(b) A production fee may be based on:

- (1) the size of column pipe used by the well; or
- (2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) The board shall base the initial production fee on the criteria listed in Subsection (b)(2) of this section. The initial production fee:

- (1) may not exceed:
 - (A) \$0.25 per acre-foot for water used for agricultural irrigation; or
 - (B) \$0.0425 per thousand gallons for water used for any other purpose;

and

- (2) may be increased at a cumulative rate not to exceed three percent per year.

(d) In addition to the production fee authorized under this section, the district may assess an export fee on groundwater from a well that is produced for transport outside the district.

(e) Fees authorized by this section may be:

- (1) assessed annually; and
- (2) used to pay the cost of district operations.

SECTION 15. GROUNDWATER WELLS UNDER RAILROAD COMMISSION JURISDICTION. (a) Except as provided by this section, a groundwater well drilled or operated

within the district under a permit issued by the Railroad Commission of Texas is under the exclusive jurisdiction of the railroad commission and is exempt from regulation by the district.

(b) Groundwater produced in an amount authorized by a railroad commission permit may be used within or exported from the district without a permit from the district.

(c) To the extent groundwater is produced in excess of railroad commission authorization, the holder of the railroad commission permit:

(1) shall apply to the district for the appropriate permit for the excess production; and

(2) is subject to the applicable regulatory fees.

(d) The district may impose a production fee or an export fee on groundwater produced from a well that was drilled to support mining activities and that is otherwise exempt from regulation by the district under Subsection (a) of this section if that groundwater is used for municipal purposes or by a public utility as defined by Section 13.002, Water Code. Any fee imposed under this subsection may not exceed the fee imposed on other groundwater producers in the district.

SECTION 16. EXEMPTION FROM FEES. (a) Except as provided by Subsection (b) of this section, the district may not assess a fee on a well drilled by a nonprofit rural water supply corporation, water district, or other political subdivision if the well's production is for use within the district.

(b) The district by emergency order of the board may impose a reasonable and temporary production fee on a well described by Subsection (a) of this section if:

(1) severe drought or other district emergency makes the fee necessary; and

(2) the term of the order does not exceed 180 days.

SECTION 17. LIMITATION ON INDEBTEDNESS. The district may issue bonds and notes under Subchapter F, Chapter 36, Water Code, except that the total indebtedness created by that issuance may not exceed \$500,000 at any time.

SECTION 18. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. The district may not purchase, sell, transport, or distribute surface water or groundwater for any purpose.

SECTION 19. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWERS. The district may not exercise the power of eminent domain under Section 36.105, Water Code.

SECTION 20. REGIONAL COOPERATION. To provide for regional continuity, the district shall:

(1) participate as needed in coordination meetings with other groundwater districts in its designated management area;

(2) coordinate the collection of data with other groundwater conservation districts in its designated management area in such a way as to achieve relative uniformity of data type

and quality;

(3) coordinate efforts to monitor water quality with other groundwater conservation districts in its designated management area, local governments, and state agencies;

(4) provide groundwater level data to other groundwater conservation districts in its designated management area;

(5) investigate any groundwater or aquifer pollution with the intention of locating its source;

(6) notify other groundwater conservation districts in its designated management area and all appropriate agencies of any groundwater pollution detected;

(7) annually provide to other groundwater conservation districts in its designated management area an inventory of water wells and an estimate of groundwater production within the district; and

(8) include other groundwater conservation districts in its designated management area on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

SECTION 21. 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 22. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act takes effect September 1, 2003.

(b) If the creation of the district is not confirmed at a confirmation election held under Section 10 of this Act before September 1, 2005, this Act expires on that date.