

## **BILL ANALYSIS**

Senate Research Center  
81R17406 SGA-F

H.B. 4808  
By: Hunter et al. (Hegar)  
Natural Resources  
5/21/2009  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Constitution authorizes the creation of groundwater conservation districts to manage and conserve groundwater. Each political subdivision in Calhoun County believes that there is a public necessity for such a district in order to properly manage groundwater in the county.

H.B. 4808 creates the Calhoun County Groundwater Conservation District (district) to manage groundwater in district territory. The bill authorizes the district to impose certain reasonable well fees and prohibits the district from imposing a tax.

H.B. 4808 relates to the creation of the district. This bill prohibits the district from exercising the power of eminent domain.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to board of directors of the district in (SECTION 1 (Section 8860.151, Special District Local Laws Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle H, Title 6, Special District Local Laws Code, by adding Chapter 8860, as follows:

#### CHAPTER 8860. CALHOUN COUNTY GROUNDWATER CONSERVATION DISTRICT

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8860.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8860.002. NATURE OF DISTRICT. Provides that the district is a groundwater conservation district in Calhoun County created under and essential to accomplish the purposes of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

Sec. 8860.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the Calhoun County Groundwater Conservation District (district) is not confirmed at a confirmation election held under Section 8860.022 before December 31, 2014, the district is dissolved December 31, 2014, except that any debts incurred are required to be paid; any assets that remain after the payment of debts are required to be transferred to Calhoun County; and the organization of the district is required to be maintained until all debts are paid and remaining assets are transferred; and this chapter expires September 1, 2016.

Sec. 8860.004. LEGISLATIVE FINDINGS. (a) Provides that the organization of the district is feasible and practicable.

(b) Provides that all land in and residents of the district will benefit from the creation of the district.

(c) Provides that the creation of the district is a public necessity and will provide a public benefit.

Sec. 8860.005. INITIAL DISTRICT TERRITORY. Provides that the initial boundaries of the district are coextensive with the boundaries of Calhoun County.

Sec. 8860.006. CONFLICTS OF LAW. Provides that this chapter prevails over any provision of general law, including a provision of Chapter 36 (Groundwater Conservation Districts), Water Code, that is in conflict or is inconsistent with this chapter.

[Reserves Sections 8860.007-8860.020 for expansion.]

#### SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8860.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Requires the Calhoun County Commissioners Court, not later than September 11, 2009, to appoint five temporary directors as follows: one temporary director from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside and one temporary director who resides in the district to represent the district at large.

(b) Requires a person, to be qualified to serve as a temporary director, to be a resident of Calhoun County who is at least 18 years of age.

(c) Requires that the remaining temporary directors, if a temporary director fails to qualify for office or a vacancy occurs on the temporary board of directors of the district (board), to appoint a qualified person to fill the vacancy. Requires the Calhoun County Commissioners Court, if at any time there are fewer than three qualified temporary directors, to appoint the necessary number of persons to fill all vacancies on the board.

(d) Requires the temporary directors to select from among themselves a president, a vice president, and a secretary.

(e) Provides that the temporary directors serve until the earlier of the date the creation of the district is confirmed at an election held under Section 8860.022 or September 1, 2013.

(f) Requires the successor temporary directors, if the creation of the district has not been confirmed under Section 8860.022 and the terms of the temporary directors have expired, to be appointed in the manner provided by Subsection (a) to serve terms that expire on the earliest of the date the district's creation is confirmed at an election held under Section 8860.022; the date the requirements of Section 8860.003(1) (relating to the date when the district is dissolved) are fulfilled or September 1, 2016.

Sec. 8860.022. CONFIRMATION ELECTION. (a) Requires the temporary directors, not later than October 1, 2009, to meet and order an election to be held in the district not later than September 1, 2010, to confirm the creation of the district.

(b) Requires the ballot for the election to be printed to provide for voting for or against the proposition and sets forth required language.

(c) Authorizes the temporary board to include other propositions on the ballot that the board considers necessary.

(d) Provides that Section 41.001(a) (relating to certain election dates), Election Code, does not apply to an election held under this section.

(e) Requires the temporary directors, if a majority of the votes cast at the election are in favor of confirming the district's creation, to declare the district created.

Provides that if a majority of the votes cast are not in favor of confirming the district's creation, the district's creation is not confirmed. Requires the temporary directors to file a copy of the election results with the Texas Commission on Environmental Quality (TCEQ).

(f) Authorizes the temporary directors, if the district's creation is not confirmed at an election held under this section, to order one or more subsequent elections to be held to confirm the creation of the district not earlier than the first anniversary of the preceding confirmation election. Provides that if the district's creation is not confirmed at an election held under this section on or before December 31, 2014, the district is dissolved in accordance with Section 8860.003.

Sec. 8860.023. INITIAL DIRECTORS. (a) Provides that, if the creation of the district is confirmed at an election held under Section 8860.022, the temporary directors take office as initial directors of the district, and the directors for precincts 1 and 3 serve terms that expire on the date of the first regular meeting of the board after the first regularly scheduled directors' election held under Section 8860.024 and the directors for precincts 2 and 4 and the director serving at large serve terms that expire on the date of the first regular meeting of the board after the second regularly scheduled directors' election.

(b) Provides that if for any reason a director elected at the first or second regularly scheduled election of directors is not qualified to take office at the first regular meeting of the board following the elected director's election, the initial director for that position is required to continue to serve until a successor qualifies.

Sec. 8860.024. FIRST ELECTION OF PERMANENT DIRECTORS. Requires that an election, on the uniform election date prescribed by Section 41.001 (Uniform Election Dates), Election Code, in November of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, be held in the district for the election of two directors for precincts 1 and 3.

Sec. 8860.025. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires December 1, 2016.

[Reserves Sections 8860.026-8860.050 for expansion.]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8860.051. DIRECTORS; TERMS. (a) Provides that the district is governed by a board of five elected directors.

(b) Provides that, except for the temporary and initial directors, directors serve staggered terms of four years, with two or three directors' terms expiring on the date of the first regular meeting of the board after an election of directors under Section 8860.053.

(c) Requires the board, if a vacancy occurs in the office of director, to appoint a person to fill the vacancy until the next regularly scheduled election of directors. Requires the person, if the position is not scheduled to be filled at the election, to serve only for the remainder of the unexpired term.

(d) Provides that a director, notwithstanding Section 36.060 (Fees of Office; Reimbursement), Water Code, is not entitled to receive compensation for performing the duties of a director.

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

Sec. 8860.052. **METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS.** (a) Requires the directors of the district to be elected according to the commissioners precinct method as provided by this section.

(b) Requires one director to be elected by the voters of the entire district, and one director to be elected from each county commissioners precinct by the voters of that precinct.

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

(d) Requires a person to indicate on the application for a place on the ballot: the precinct that a person seeks to represent or that the person seeks to represent the district at large.

(e) Requires 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, when the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, to 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.

Sec. 8860.053. **ELECTION DATE.** Requires the district to hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001 (Uniform Election Dates), Election Code, in November of each even-numbered year.

[Reserves Sections 8860.054-8860.100 for expansion.]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8860.101. **GENERAL POWERS AND DUTIES.** Provides that, except as otherwise provided by this chapter, the district has all of the rights, powers, privileges, functions, and duties provided by the general law of this state, including Chapter 36 (Groundwater Conservation Districts), Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI (General Provisions), Texas Constitution.

Sec. 8860.102. **CERTAIN PERMIT DENIALS PROHIBITED.** Prohibits the district from denying the owner of a tract of land, or the owner's lessee, who does not have a well equipped to produce more than 25,000 gallons each day on the tract, either a permit to drill a well on the tract or the privilege to produce groundwater from the tract, subject to district rules.

Sec. 8860.103. **MITIGATION ASSISTANCE.** Authorizes the district, in addition to the authority granted by Chapter 36, Water Code, to assist in the mediation between landowners regarding the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others.

Sec. 8860.104. **PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWER.** Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 8860.105-8860.150 for expansion.]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8860.151. **FEES.** (a) Authorizes the board by rule to impose a reasonable fee on each well for which a permit is issued by the district and that is not exempt from regulation by the district. Authorizes that the fee be based on the size of column pipe

used by the well or the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) Authorizes the district, in addition to a fee imposed under Subsection (a), to impose a reasonable fee or surcharge for an export fee using one of the following methods: a fee negotiated between the district and the transporter or a combined production and export fee.

(c) Provides that fees authorized by this section may be assessed annually and may be used to fund the cost of district operations.

Sec. 8860.152. TAXES PROHIBITED. Prohibits the district from imposing a tax and provides that the district does not have the authority granted by Sections 36.020 (Bond and Tax Proposal), 36.201 (Levy of Taxes), 36.202 (Board Authority), 36.203 (Tax Rate), and 36.204 (Tax Appraisal, Assessment and Collection), Water Code, relating to taxes.

SECTION 2. Provides that 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. Effective date: September 1, 2009.