

H.B. No. 4114

H.B. No. 3602 as amended by H.B. No. 4114

AN ACT

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

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

SECTION 1. CREATION. (a) A groundwater conservation district, to be known as the Brazoria County Groundwater Conservation District, is created in Brazoria County, subject to approval at a confirmation election under Section 9 of this Act. The district is a governmental agency and a body politic and corporate.

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

SECTION 2. DEFINITION. In this Act, (1) "District" means the Brazoria County Groundwater Conservation District.

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

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Brazoria County, Texas.

SECTION 4. FINDING OF BENEFIT. 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. The district is created to serve a public use and benefit.

SECTION 5. GENERAL POWERS. Except as provided by Section 11 of 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. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

SECTION 6. BOARD OF DIRECTORS. (a) The district is

governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 9 of this Act.

(c) Initial directors serve until permanent directors are elected under Section 10 of this Act.

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

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

(f) A director serves until the director's successor has qualified.

SECTION 7. TEMPORARY DIRECTORS. (a) The temporary board of directors consists of:

(1) four members appointed by the Brazoria County Commissioners Court; and

(2) Dennis Ray Davenport, who shall serve as the presiding officer.

(b) If a temporary director fails to qualify for office or vacates the office before initial directors are elected, the

Brazoria County Commissioners Court shall appoint a new person to fill the vacancy.

SECTION 8. 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 one director shall be elected from each county commissioners precinct by the voters of that precinct.

(c) 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 under Section 18, Article V, Texas Constitution, a director in office on the effective date of the change, or elected or appointed before the effective date of the change to a term of office beginning on or after the effective date of the change, shall serve the term or the remainder of the term 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 9. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors' election, the temporary board of 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 8 may file for an initial director's position.

(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)-(h), Water Code, and the Election Code.

SECTION 10. ELECTION OF DIRECTORS. (a) On the first Tuesday after the first Monday in November of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of three directors to serve four-year terms and two directors to serve two-year terms.

(b) On the first Tuesday after the first Monday in November of each subsequent second year following the election,

the appropriate number of directors shall be elected.

SECTION 11. LIMITATIONS ON DISTRICT POWERS. (a) The district may not for any purpose:

- (1) impose a tax of any type;
- (2) exercise the power of eminent domain;
- (3) acquire land;
- (4) issue or sell bonds; or
- (5) purchase, sell, transport, or distribute surface water or groundwater.

(b) For a new or existing water well on private property that serves only a single-family dwelling used only for domestic purposes, the district may not:

- (1) assess or collect a fee of any type; or
- (2) require that a meter be placed on the well.

(c) For a new or existing water well used only for agriculture, as that term is defined by Section 36.001, Water Code, the district may not:

- (1) assess or collect a fee of any type; or

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(2) require that a meter be placed on the well.

SECTION 12. FEES. Unless exempt under this Act or Chapter 36, Water Code, the board may establish by schedule and impose:

(1) a production fee under Section 36.205, Water Code;

(2) an export fee for groundwater transferred out of the district in an amount not to exceed 150 percent of the maximum wholesale water rate charged by the City of Houston; and

(3) other fees as authorized by Chapter 36, Water Code.

SECTION 13. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

(a) The proper and 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 by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to

the Texas Commission on Environmental Quality.

(b) 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.

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

SECTION 14. REPEALER. Chapter 1475, Acts of the 77th Legislature, Regular Session, 2001, is repealed.

SECTION 15. 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 9 of this Act before December 31, 2006, this Act expires on that date.