

By: Nevárez

H.B. No. 4123

A BILL TO BE ENTITLED

AN ACT

Relating to the creation of the Val Verde County Groundwater Conservation District; providing authority to impose fees and taxes.

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

SECTION 1. CREATION. A groundwater conservation district, to be known as the Val Verde County Groundwater Conservation District, is created in Val Verde County, subject to approval at a confirmation election under Section 7 of this Act.

SECTION 2. FINDINGS OF BENEFIT. (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) 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 3. CONTINUING PROVISIONS OF DISTRICT. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 01 to read as follows:

CHAPTER 01. VAL VERDE COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 01.001 DEFINITIONS. In this chapter:

1 (1) "Agricultural use" means any use or activity involving
2 agriculture, including irrigation.

3 (2) "Agriculture" means any of the following activities:

4 (A) cultivating the soil to produce crops for human
5 food, animal feed, or planting seed or for the production of fibers;

6 (B) the practice of floriculture viticulture,
7 silviculture, and horticulture, including the cultivation of
8 plants in containers of nonsoil media, by a nursery grower;

9 (C) raising, feeding, or keeping animals, other than
10 fish, for breeding purposes or for the production of food or fiber,
11 leather, pelts, or other tangible products having a commercial
12 value;

13 (D) planting cover crops, including cover crops
14 cultivated for transplantation, or leaving land idle for the
15 purpose of participating in any governmental program or normal crop
16 or livestock rotation procedure;

17 (E) wildlife management, including hunting, fishing,
18 sightseeing, bird watching and other outdoor recreational
19 activities; and

20 (F) raising or keeping equine animals.

21 (3) "Board" means the board of directors of the district.

22 (4) "Director" means a member of the board.

23 (5) "District" means the Val Verde County Groundwater
24 Conservation District.

25 (6) "Domestic use" means use in the district of water by a
26 person owning the well from which the water is withdrawn and by that
27 person's household, employees, tenants, licensees or guests for:

(A) drinking, washing, or culinary purposes;

(B) irrigation of lawns;

(C) irrigation of a family garden or orchard the produce of which is for household consumption only;

(D) swimming pools, decorative ponds, or fountains on the person's property or;

(E) watering of domestic animals not raised, maintained, or sold for commercial purposes.

(7) "Greatest water usage" means the highest sum for a given calendar year of: (i) groundwater produced; and (ii) water used pursuant to a water right as defined in Section 11.002(5), Water Code.

(7) "Political subdivision" means a county, municipality, or other body politic or corporate of the state, including a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a state agency, or a nonprofit water supply corporation created under Chapter 67, Water Code.

(8) "Retail public utility" means an entity defined in Section 13.002(19), Water Code.

(9) "Del Rio Certificate of Adjudication" means the Certificate of Adjudication No. 23-2672 issued by the Texas Water Commission to the City of Del Rio on August 15, 1983.

SEC. 01.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Val Verde County created under Section 59, Article XVI, Texas Constitution.

SEC. 01.003. DISTRICT PURPOSE. The district is created to:

1 (1) provide for the protection, recharging,
2 conserving, ~~protecting~~, and prevention of waste of groundwater in
3 Val Verde County;

4 (2) control subsidence caused by the withdrawal of
5 water from the groundwater in Val Verde County;

6 (3) regulate the transport of groundwater out of the
7 boundaries of the district;

8 (4) regulate pumping in the district to protect spring
9 flow, base flow and drawdown;

10 (5) implement conservation plans and pumping
11 reduction when conditions warrant action to protect spring flow,
12 base flow and drawdown; and

13 (6) manage the issuance of permits, by requiring
14 studies and groundwater availability model analysis of permit
15 applications, that include conservation triggers that mitigate
16 impact to spring flow, base flow and drawdown.

17 SUBCHAPTER B. TERRITORY

18 Sec. 01.004. BOUNDARIES. The boundaries of the district
19 are coextensive with the boundaries of Val Verde County, Texas.

20 SUBCHAPTER C. BOARD OF DIRECTORS

21 Sec. 01.101. BOARD. The board shall be governed by five
22 directors.

23 Sec. 01.102. METHOD OF ~~APPOINTING~~ SELECTING DIRECTORS:

24 (a) The directors of the district shall be appointed or
25 elected as provided by this section.

26 (b) One (1) director shall be appointed by the City Council
27 of the City of Del Rio, Texas.

1 (c) One (1) director shall be appointed by the Commissioners
2 court of Val Verde County, Texas.

3 (d) One (1) director shall be elected at-large by the voters
4 of Val Verde, County.

5 (e) One (1) director shall be elected by the voters of
6 Commissioner Precincts 2 and 3, combined, of the Commissioners
7 Court of Val Verde County, as such precincts may be redrawn from
8 time to time by such Commissioners Court.

9 (f) One (1) director shall be elected by the voters of
10 Commissioner Precincts 1 and 4, combined, of the
11 Commissioners Court of Val Verde County, as such
12 precincts may be redrawn from time to time by such
13 Commissioners Court

14 (g) To be eligible to serve as a director, a person must be a
15 registered voter of Val Verde County, Texas.

16 (h) Elections for the director positions in subsections
17 (d)-(f) of this Section shall be held in even-numbered years on the
18 uniform election date in November.

19 Sec. 01.103. TERMS.

20 (a) Directors serve staggered four-tear terms and may serve
21 consecutive terms.

22 (b) Directors shall draw lots to determine which three
23 directors shall serve a term expiring December 1 of the year two
24 years after the date of the election in which the district is
25 confirmed and which two directors shall serve a term expiring
26 December 1 of the year four years after the date of the election in
27 which the district is confirmed.

1 Sec. 01.104. VACANCIES. If there is a vacancy on the board,
2 the board shall appoint a director to serve the remainder of the
3 term.

4 Sec. 01.105 COMPENSATION. (a) A director is not entitled to
5 receive fees of office for performing the duties of a director.

6 (b) The board may authorize a director to receive
7 reimbursement for the director's reasonable expenses incurred
8 while engaging in activities outside the district on behalf of the
9 board.

10 SUBCHAPTER D. POWERS AND DUTIES

11 Sec. 01.150. POWERS AND DUTIES. Except as otherwise
12 provided by this chapter, the district has all of the rights,
13 powers, privileges, authority, functions, and duties provided by
14 the general law of this state, including Chapter 36, Water Code,
15 applicable to groundwater conservation districts created under
16 Section 59, Article XVI, Texas Constitution.

17 Sec. 01.151 PERMITS TO PUMP GROUNDWATER.

18 (a) The district by rule shall:

19 (1) require a person to obtain a permit from the
20 district to pump groundwater unless exempted under other sections
21 of this legislation; and

22 (2) regulate the terms of a transfer of groundwater
23 out of the district.

24 (b) The district shall develop rules under this section
25 that:

26 (1) are consistent with the requirements of Section
27 36.122, Water Code, except as otherwise provided in Section

01.202(c) of this legislation; and

(2) provide for reduction and curtailment of groundwater pumping to protect spring flow, base flow and drawdown; and

(3) do not, in any event, seek to reduce or curtail usage or production under a water right as defined in Section 11.002(5), Water Code, including the Del Rio Certificate of Adjudication.

(c) To implement the rules developed under 01.151(b)(2) of this legislation, the district may make and enforce rules as authorized under Section 36.101(a), Water Code, and to the extent not otherwise authorized by Section 36.101(a), limit groundwater production based on acreage, tract size, spacing of wells, or the service area of a public water supplier.

(c-1) Any district rules or enforcement of rules requiring reductions or curtailments on the production of groundwater otherwise authorized by permit shall be applied proportionally to all such permitted production.

(d) For better management of the groundwater resources located in the district, if the district determines that conditions in or use of an aquifer differ substantially from one geographic area of the district to another, the district may adopt different rules regulating production from management zones based on acreage, tract size, or the service area of a public water supplier . In creating management zones, the district may consider:

(1) each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of

1 the district; or

2 (2) each geographic area overlying an aquifer or
3 subdivision of an aquifer located in whole or in part within the
4 boundaries of the district.

5 Sec. 01.152. PERMITS FOR USE SOLELY INSIDE DISTRICT.

6 (a) The district shall grant the City of Del Rio a permit in
7 the city's name that authorizes the city to pump from all city wells
8 annually a cumulative volume of groundwater that is not less than
9 the greatest water usage in a calendar year before the date the
10 district is confirmed. The permit shall be for use solely inside the
11 district.

12 (b) In addition to the permit in Section 01.152(a), the
13 district shall grant a permit to each existing political
14 subdivision and retail public utility in the district that
15 authorizes each such political subdivision and retail public
16 utility to pump from its wells annually a volume of water that is
17 not less than the greatest water usage by such political
18 subdivision and retail public utility in a calendar year before the
19 date the district is confirmed. The permit shall be for use solely
20 inside the district.

21 (c) Nothing in this section, or in Section 01.053(a)(1),
22 shall be considered a limitation under Section 36.122(c), Water
23 Code, on the district's authority to establish permit conditions
24 for transporters.

25 Sec. 01.153. EXEMPTIONS. (a) The district shall not
26 require a person to obtain a permit from the district for
27 groundwater production from a well if the well is not capable of

1 producing more than 72,000 gallons a groundwater a day and the
2 groundwater is used inside the district.

3 (a-1) Nothing in Section 01.153(a) makes Section 36.113(a), Water
4 Code, inapplicable in the district.

5 (b) An owner of a well described in this section may be
6 required to register the well with the district.

7 (c) An owner of a well is entitled to a permit exemption
8 under this section only if water from the well is used solely inside
9 the district. If any water from a well is directly or indirectly
10 (other than through an agricultural crop) used outside the
11 district, the well owner must obtain a permit for its production, in
12 addition to any permits that must be obtained for its use outside
13 the district.

14 (d) The district may not require a permit or a permit
15 amendment for maintenance or repair of a well if the maintenance or
16 repair does not increase the production capabilities of the well to
17 more than its authorized or permitted production rate.

18 Sec. 01.154. PROHIBITION OF DISTRICT PURCHASE, SALE, OR
19 DISTRIBUTION OF WATER. The district may not purchase, sell,
20 transport, or distribute surface water or groundwater for any
21 purpose.

22 Sec. 01.155. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN.
23 The district may not exercise the power of eminent domain.

24 Sec. 01.156. GROUNDWATER FLOW MODEL.

25 (a) The district shall develop a district specific model
26 which shall be used in conjunction with joint planning in the
27 management area process found in Section 36.108 of the Texas Water

1 Code. Until a subsequent study is determined by the district board
2 of directors to be more appropriate, the district shall use as its
3 model the Val Verde County/City of Del Rio Hydrogeological Study
4 dated May 2014 by EcoKai Environmental, Inc. and William R.
5 Hutchison, Ph.D, P.E., P.G.

6 (b) Applicants for transfer will be required to pay for any
7 cost to run updated modeling of the effects of the proposed pumping
8 on the aquifer and spring flow, base flow and drawdown. The district
9 will utilize the information provided by the model in considering
10 the applications.

11 (c) The district can require any other permit applicant to
12 pay for the cost of the model utilization, if it deems the volume of
13 pumping warrants model review.

14 Sec. 01.157. WATER CONSERVATION INITIATIVE. The district
15 may create a water conservation initiative as described by Section
16 [11.32](#), Tax Code.

17 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

18 Sec. 01.201. LIMITATION ON TAXES.

19 (a) The district may not levy ad valorem taxes at any rate
20 that exceeds five (5) cents on each \$100 of assessed valuation of
21 taxable property in the district.

22 (b) Sections 26.04, 26.05 and 26.06 of the Texas Tax Code do
23 not apply to a tax levied and collected by the District. Instead,
24 the District must follow the requirements under Section 49.236 of
25 the Texas Water Code.

26 Sec. 01.202. FEES.

27 (a) The board by rule may impose reasonable and equitable

1 fees on each well:

2 (1) for which a permit is issued by the district; and

3 (2) that is not exempt from district regulation.

4 (b) A production fee may be based on:

5 (1) the size of column pipe used by the well, or

6 (2) the amount of water actually withdrawn from the
7 well, or the amount authorized or anticipated to be withdrawn.

8 (c) In addition to the production fee authorized under this
9 section, the district shall assess a reasonable export fee on
10 groundwater produced from a well and transported outside the
11 district.

12 (d) A district may set fees by rule or resolution for
13 administrative acts of the district such as filing applications,
14 reviewing and processing permits, conducting permit hearings, cost
15 of public notices, legal fees, expert fees, hearing facility rental
16 fees and other fees.

17 (e) Nothing in this section authorizes the board to impose a
18 production fee on water used or produced under a water right as
19 defined in Section 11.002(5), Water Code, including under the Del
20 Rio Certificate of Adjudication.

21 SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS

22 (a) Not later than the 45th day after the effective date of
23 this Act:

24 (1) the Val Verde County Commissioners Court shall
25 appoint two temporary directors;

26 (2) the Del Rio City Council shall appoint two
27 temporary directors; and

1 (3) the Val Verde County Judge and the Mayor of Del Rio
2 shall jointly appoint one temporary director.

3 (b) Temporary directors serve until temporary directors
4 become initial directors as provided by Section 8 of this Act or
5 until this Act expires under Section 12, whichever occurs earlier.

6 (c) Before the confirmation election, the presiding officer
7 of the district or the presiding officer's designee may represent
8 the district in the joint planning process found in Section 36.108
9 of the Texas Water Code and such designee shall be considered a
10 voting representative.

11 SECTION 6. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS.

12 As soon as practicable after all the temporary directors have
13 qualified under Section 36.055 of the Texas Water Code, a majority
14 of the temporary directors shall convene the organizational meeting
15 of the district at a location within the district agreeable to a
16 majority of the directors. If no location can be agreed upon, the
17 organizational meeting shall be at the Val Verde County Courthouse.

18 SECTION 7. CONFIRMATION ELECTION.

19 (a) The temporary directors shall hold an election to
20 confirm the creation of the district.

21 (b) Except as provided by this section, a confirmation
22 election must be conducted as provided by Sections 36.017(b)-(i),
23 Water Code, and the Election Code.

24 (c) The district may hold a subsequent confirmation
25 election if the previous confirmation election fails to pass. A
26 subsequent confirmation election may not be held sooner than one
27 year after the date of the previous confirmation election.

1 (d) The confirmation election ballot shall be printed to
2 permit voting for or against the proposition: "To create the Val
3 Verde County Groundwater Conservation District and to authorize a
4 rate not to exceed 5 cents for each \$100 valuation of all taxable
5 property in the district."

6 (e) The costs of an election held under this chapter may be
7 paid by Val Verde County and the City of Del Rio.

8 (f) If the establishment of the district is not confirmed at
9 an election held under this section before September 1, 2020, the
10 district is dissolved, except that:

11 (1) any debts incurred shall be paid;

12 (2) any assets that remain after the payment of the
13 debts shall be transferred to Val Verde County and the City of Del
14 Rio in proportion to the amounts each has contributed to the costs
15 of the confirmation election and district operations; and

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

19 SECTION 8. INITIAL DIRECTORS

20 If creation of the district is confirmed at an election held
21 under Section 7 of this Act, the temporary directors of the district
22 become the initial directors of the district and serve on the board
23 of directors until replaced according to Section 01.102.

24 SECTION 9. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS

25 (a) The legal notice of the intention to introduce this Act,
26 setting forth the general substance of this Act, has been published
27 as provided by law, and the notice and a copy of this Act have been

1 furnished under Section 59, Article XVI, Texas Constitution, and
2 Chapter 313, Government Code.

3 (b) The governor has submitted the notice and Act to the
4 Texas Commission on Environmental Quality.

5 (c) The Texas Commission on Environmental Quality has filed
6 its recommendations relating to this Act with the governor, the
7 lieutenant governor, and the speaker of the house of
8 representatives within the required time.

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

13 SECTION 10. EXPIRATION

14 (a) If the creation of the district is not confirmed at a
15 confirmation election held under Section 7 of this Act before
16 September 1, 2020, this Act expires on that date.

17 (b) The expiration of this Act does not affect the liability
18 of the district to pay any debt incurred or the transfer of any
19 assets remaining to Val Verde County and the City of Del Rio as
20 required by Section 7(f) of this Act.

21 SECTION 11. EFFECTIVE DATE

22 This Act takes effect immediately if it receives a vote of
23 two-thirds of all the members elected to each house, as provided by
24 Section 39, Article III, Texas Constitution. If this Act does not
25 receive the vote necessary for immediate effect, this Act takes
26 effect September 1, 2015.