

A BILL
TO BE ENTITLED

10 AN ACT relating to the creation, organization, powers,
11 and duties of an underground water conser-
12 vation district located in Schleicher County;
13 and declaring an emergency.
14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
16

SUBCHAPTER A. GENERAL PROVISIONS.

17 Section 1. SHORT TITLE. This Act may be cited as the Plateau
18 Underground Water Conservation and Supply District Act.

19 Sec. 2. DEFINITIONS. In this Act, unless the context requires a
20 different definition:

21 (1) "person" includes firm, association, partnership, and
22 corporation;

23 (2) "underground water"

24 (A) means water suitable for agricultural, gardening,
25 domestic, or stock-raising uses, percolating below the earth's surface;

26 (B) does not include water in a defined subterranean stream
27 or in the underflow of a river;

28 (3) "district" means the Plateau Underground Water Conservation
29 and Supply District;

30 (4) "board" means the board of directors of the district.
31

SUBCHAPTER B. ADMINISTRATION.

32 Sec. 3. CREATION OF DISTRICT. The Plateau Underground Water
33 Conservation and Supply District is created. The district is created
34 under Section 59, Article XVI, Constitution of the State of Texas.
35

36 Sec. 4. AREA OF DISTRICT. The district covers the same area
37 that Schleicher County covers, and all other area added by the board
38 under Section 38 of this Act, except

39 (1) area which is within the limits of an incorporated city or
40 town in Schleicher County on the effective date of this Act;

41 (2) area which comes within the limits of an incorporated city
42 or town in Schleicher County after the effective date of this Act, which
43 the board excludes under Section 37(c) of this Act;

44 (3) area under which there is either no underground water or no
45 underground water that can be brought to the surface at a cost that makes
46 bringing it to the surface economically feasible, which the board excludes
47 under Section 37(c) of this Act.

48 Sec. 5. ESTABLISHMENT OF BOARD. The board of directors of
49 the Plateau Underground Water Conservation and Supply District is
50 established.

51 Sec. 6. COMPOSITION AND TERMS OF OFFICE. (a) The board
52 consists of five directors.

53 (b) The directors are elected at elections provided for in Section 10
54 of this Act. A director serves a two-year term.

55 (c) If a constitutional amendment is adopted authorizing directors
56 of conservation and reclamation districts to serve six-year terms,
57 Subsection (b) of this section is repealed on the day of the first election
58 to elect directors held under this Act after the constitutional amendment
59 becomes effective, and the directors serve six-year terms. At that

1 election, two directors are elected for two-year terms; two for four-
2 year terms; and one for a six-year term. The board shall conduct bi-
3 ennial elections after that election, at which directors are elected to re-
4 place retiring directors, for six-year terms.

5 (d) If a position on the board becomes vacant, a majority of the re-
6 maining directors shall appoint another person to fill the vacated position
7 for the unexpired term.

8 (e) A director serves until his successor is elected.

9 Sec. 7. QUALIFICATION OF DIRECTORS. A person is qualified to
10 serve on the board who is elected or appointed to that position, and who

11 (1) is at least 21 years of age;

12 (2) owns real property in the district;

13 (3) is a resident of the district.

14 Sec. 8. ADMINISTRATOR AND EMPLOYEES. (a) The board may
15 employ an administrator and set his salary. The board may delegate
16 any of its powers and duties (except those of adopting rules, a dissolution
17 resolution, a dissolution order, and those relating to hearings, taxation,
18 and bonds) to the administrator, who may carry out powers and duties
19 delegated to him by the board. Employment of personnel is subject to
20 the general law on nepotism.

21 (b) The administrator, with the approval of the board, may employ
22 employees of the board and set their salaries, and hire legal counsel for
23 the board. If an employee or a member of his family is a member of
24 the board, the employee may not receive compensation for his services
25 as an employee.

26 Sec. 9. BOARD MEETINGS AND OFFICERS. (a) The board shall
27 hold regular quarterly meetings. It may hold other meetings at the call
28 of the chairman or at the request of at least two directors.

29 (b) A majority of the directors is a quorum for conducting business.

30 (c) The board shall elect its officers.

31 Sec. 10. ELECTIONS. (a) The board shall call an election to elect
32 directors to the board on the second Tuesday in January of each
33 odd-numbered year. The first election to elect directors under this Act
34 is to be held on January 10, 1967.

35 (b) The board shall conduct an election held under this Act under the
36 general laws of the state relating to elections.

37 (c) One person shall be elected from each of the four precincts in
38 Schleicher County and one additional one from the precinct with the
39 largest population.

40 (d) No board member may serve continuously for more than two
41 terms.

42 (e) The board shall pay for the cost of elections with money of the
43 district.

44 (f) No board member may hold any office of emolument.

45 SUBCHAPTER C. ADMINISTRATIVE PROCEDURE.

46 Sec. 11. PROCEDURE FOR ADOPTING AND AMENDING RULES.

47 (a) Before the board may adopt or amend a rule under this Act, it
48 must publish a brief summary of the rule or the amendment in one or
49 more newspapers as it decides is necessary to give the summary general
50 circulation throughout the district. The board must publish the summary
51 one time a week for two weeks.

52 (b) The rule or amendment takes effect on the fourteenth day after
53 the day the summary is published the second time, unless

54 (1) the board specifies that it takes effect at a later time; or

55 (2) the board rescinds the order adopting the rule or amendment.

56 (c) The board may rescind the order for (but it may not change) a
57 rule or amendment, from the time the summary is first published until
58 after the rule or amendment takes effect. After the rule or amendment
59 takes effect, the board may change or repeal it only by adopting a rule
60 repealing or amending it.

1 (d) If the board rescinds an order for a rule or amendment, it may
2 adopt a new rule or amendment at any time, even though the new rule or
3 amendment is on the same subject as the rule or amendment rescinded.

4 Sec. 12. DECLARATORY JUDGMENT ON VALIDITY OF RULES.

5 (a) The validity of a rule adopted under this Act may be determined
6 upon petition for a declaratory judgment on the validity of the rule ad-
7 dressed to the district court sitting in the Plateau Underground Water Con-
8 servation and Supply District, when it appears that the rule, or its
9 threatened application, interferes with or impairs, or threatens to inter-
10 fere with or impair, the legal rights or privileges of the petitioner. The
11 board shall be made a party to the proceeding. The declaratory judgment
12 may be rendered whether or not the petitioner has first requested the
13 board to pass upon the validity of the rule in question.

14 (b) The court shall declare the rule invalid if it finds that the rule
15 violates constitutional provisions, exceeds the statutory authority of the
16 board, or was adopted without complying with Section 11 of this Act.

17 Sec. 13. DEFINITION. In Sections 13 through 20 of this Act,
18 "contested case" means a proceeding before the board in which the legal
19 rights, duties, or privileges of specific parties are required by law or
20 constitutional right to be determined after a board hearing.

21 Sec. 14. HEARING OFFICER. (a) In a contested case, the board
22 shall employ an attorney to serve as the hearing officer in the hearing.
23 At the hearing, the hearing officer shall

- 24 (1) preside over the hearing;
- 25 (2) rule on the admissibility of evidence;
- 26 (3) at the direction of the board, prepare the record, decision,
27 and order of the board and the notices for the hearing;
- 28 (4) assist the board in all legal matters connected with the
29 hearing.

30 (b) The hearing officer may vote only to break a tie.

31 (c) If a member of the board is an attorney, the board may designate
32 that he is the hearing officer, rather than employ another attorney to be
33 the hearing officer. In that case, Subsection (b) of this section does not
34 apply.

35 Sec. 15. NOTICE, HEARING, RECORDS. (a) All parties shall be
36 afforded an opportunity for hearing after reasonable notice. The notice
37 shall state the time, place, and issues involved, but if, because of the
38 nature of the proceeding, the issues cannot be fully stated in advance of
39 the hearing, or if subsequent amendment of the issues is necessary, the
40 issues shall be fully stated as soon as practicable, and opportunity shall
41 be afforded all parties to present evidence and argument with respect to
42 the issues.

43 (b) The board shall prepare an official record, including testimony
44 and exhibits, in each contested case, and shall prepare a mechanical
45 recording of the proceedings. It is not necessary to transcribe the
46 recording unless the transcription is requested for purposes of rehearing
47 or court review.

48 (c) Informal disposition may also be made of any contested case by
49 stipulation, agreed settlement, consent order, or default.

50 (d) The board shall adopt appropriate rules of procedure for notice
51 and hearing in contested cases.

52 Sec. 16. RULES OF EVIDENCE. (a) In contested cases, the board
53 may admit and give probative effect to evidence which possesses
54 probative value commonly accepted by reasonably prudent men in the
55 conduct of their affairs. The board shall give effect to the rules of
56 privilege recognized by law. It may exclude incompetent, irrelevant,
57 immaterial, and unduly repetitious evidence.

58 (b) All evidence, including those of the board's records and docu-
59 ments it desires to use, shall be offered and made a part of the record
C132160 in the case, and no other factual information or evidence shall be consid-

1. ered in the determination of the case. Documentary evidence may be
2. received in the form of copies or excerpts, or by incorporation by
3. reference.

4. (c) Every party has the right to cross-examine witnesses who
5. testify, and has the right to submit rebuttal evidence.

6. Sec. 17. OFFICIAL NOTICE. The board may take notice of
7. judicially cognizable facts and in addition may take notice of general,
8. technical, and scientific facts within its specialized knowledge. Parties
9. shall be notified either before or during hearing, or by reference in
10. preliminary reports or otherwise, of the material so noticed, and they
11. shall be afforded an opportunity to contest the facts so noticed. The
12. board may use its experience, technical competence, and specialized
13. knowledge in evaluating the evidence presented to it.

14. Sec. 18. EXAMINATION OF EVIDENCE BY BOARD. When in a
15. contested case a majority of the directors of the board who are to
16. render the final decision have not heard or read the evidence, the
17. decision, if adverse to the party to the proceeding other than the board
18. itself, shall not be made until a proposal for decision, including
19. findings of fact and conclusions of law, has been served upon the parties
20. and an opportunity has been afforded to each party adversely affected
21. to file exceptions and present argument to a majority of the directors
22. who are to render the decision, who shall personally consider the whole
23. record or as much of it as may be cited by the parties.

24. Sec. 19. DECISIONS AND ORDERS. Every decision and order
25. adverse to a party to the proceeding, rendered by the board in a con-
26. tested case, shall be in writing or stated in the record and shall be
27. accompanied by findings of fact and conclusions of law for each contested
28. issue. Parties to the proceeding shall be notified of the decision and
29. order in person or by mail. A copy of the decision and order and accom-
30. panying findings and conclusions shall be delivered or mailed upon
31. request to each party or to his attorney of record.

32. Sec. 20. JUDICIAL REVIEW OF CONTESTED CASES. (a) A
33. party aggrieved by a final decision in a contested case, whether the
34. decision is affirmative or negative in form, is entitled to judicial review
35. of the decision.

36. (b) Review shall be instituted by filing a written statement com-
37. plaining of the board's decision in the court of civil appeals within 30 days
38. after service of the final decision of the board. The statement shall
39. specify concisely each finding, conclusion, or action of the board with
40. which the aggrieved party disagrees. Copies of the statement be served
41. upon the board and all other parties of record. The court, in its discre-
42. tion, may permit other interested persons to intervene.

43. (c) Filing the petition does not stay enforcement of the board's
44. decision; but the board may do so, or the reviewing court may order a
45. stay upon such terms as it deems proper.

46. (d) Within 30 days after service of the statement, or within such
47. further time as the court may allow, the board shall transmit to the
48. reviewing court the original or a certified copy of the entire record of the
49. proceeding under review; but, by stipulation of all parties to the review
50. proceeding, the record may be shortened. A party unreasonably refusing
51. to stipulate to limit the record may be taxed by the court for the additional
52. costs caused by his refusal. The court may require or permit subsequent
53. corrections or additions to the record when deemed desirable.

54. (e) If, before the date set for hearing, application is made to the
55. court for leave to present additional evidence on the issues in the
56. case, and it is shown to the satisfaction of the court that the additional
57. evidence is material and that there was good reason for failing to present
58. it in the proceeding before the board, the court may order that the addi-
59. tional evidence be taken before the board upon such conditions as the court
60. deems proper. The board may add to or modify its findings, conclusions,

1 and decision in light of the additional evidence and shall file with the court,
2 as part of the record, the additional evidence, together with any additions
3 or modifications to its findings, conclusions, or decision.

4 (f) The review shall be conducted by the court and shall be confined
5 to the record, except that in cases of alleged irregularities in procedure
6 before the board, not shown in the record, testimony on the alleged
7 irregularities may be taken in court. The court shall, on request, hear
8 oral argument and receive written briefs.

9 (g) The court may affirm the decision of the board or remand the
10 case for further proceedings; or it may reverse or modify the decision
11 if the substantial rights of a party may have been prejudiced because
12 the administrative findings, inferences, conclusions, or decisions
13 are

- 14 (1) in violation of constitutional provisions;
- 15 (2) in excess of the statutory authority or jurisdiction of the
16 board;
- 17 (3) made upon unlawful procedure;
- 18 (4) affected by other error of law;
- 19 (5) unsupported by competent, material, and substantial evi-
20 dence in view of the entire record as submitted; or
- 21 (6) arbitrary or capricious.

22 SUBCHAPTER D. FINANCIAL PROVISIONS.

23 Sec. 21. TAXATION. (a) The board may levy and collect property
24 taxes levied on the property in the district that are necessary to enable
25 the board to perform the powers and functions given it in this Act.

26 (b) The board may not levy or collect property taxes at a rate greater
27 than the number of cents per \$100 valuation based on Schleicher County
28 values to provide a net fund of no greater than \$10,000 unless a district-
29 wide election is held to provide a raise in taxes, and in no case shall the
30 rate of taxes exceed 35 cents on the \$100 valuation.

31 (c) The general law on water control and improvement districts,
32 relating to the levy and collection of taxes and to elections held on tax
33 levees applies to the levy and collection of taxes by the board.

34 Sec. 22. BONDS. (a) The board may issue bonds to finance opera-
35 tions and construct projects authorized under this Act.

36 (b) The general law on water control and improvement districts,
37 relating to issuing bonds and retiring bond issues, elections on bond
38 issues, and elections in assuming and discharging tax liability for bonds,
39 applies to issuing bonds and retiring bond issues by the board.

40 (c) The provisions of Section 139, Chapter 25, General Laws, Acts of
41 the 39th Legislature, Regular Session, 1925 (Article 7880-139, Vernon's
42 Texas Civil Statutes), relating to approval of plans and specifications for
43 projects to be financed by the sale of bonds, apply to the sale of bonds
44 under this Act.

45 SUBCHAPTER E. POWERS AND DUTIES OF THE BOARD.

46 Sec. 23. CONSERVATION RULES. The board may adopt rules
47 for the purpose of conserving, preserving, protecting, and recharging
48 the underground water in the district.

49 Sec. 24. WASTE. (a) The board may adopt rules designed to
50 prevent waste of the underground water in the district.

51 (b) A person wastes underground water who

52 (1) withdraws the underground water at such a rate or in such
53 an amount as to cause the intrusion of water that is not suitable for
54 agricultural, gardening, domestic, or stock-raising uses;

55 (2) allows a well to flow or produce underground water for a
56 use other than

57 (A) an agricultural, gardening, domestic, stock-raising,
58 municipal, or recreational use;

59 (B) a use which is beneficial to the user;

1 (3) allows underground water to escape from one underground
2 water stratum to another stratum which does not contain water suitable
3 for agricultural, gardening, domestic, or stock-raising uses;

4 (4) pollutes or harmfully alters the character of the under-
5 ground water; or

6 (5) uses the underground water to explore for, produce, handle,
7 or treat oil, gas, sulphur, or other minerals, if rules of the board
8 specify that special circumstances make these uses wasteful.

9 Sec. 25. PERMITS. (a) The board may adopt rules requiring a
10 person to obtain a permit from the board before he may drill, equip,
11 complete, or substantially alter the size of a well or the size of a pump
12 used in connection with the well.

13 (b) The board may add whatever terms and conditions to the permit
14 and modify the terms and conditions, that are necessary to insure that
15 drilling, equipping, completing, or substantially altering the size of
16 a well or the size of a pump used in connection with the well will

17 (1) preserve and conserve the underground water in the district;

18 (2) prevent any of the kinds of waste of the underground water
19 specified in Section 24 of this Act;

20 (3) minimize as far as practicable the drawdown of the water
21 table or the reduction of artesian pressure;

22 (4) lessen interference between wells.

23 (c) A permit issued under this section is conditional and the board
24 may revoke it if the person to whom it was issued does not comply with
25 rules adopted under Sections 23 through 28 of this Act or with the terms
26 and conditions stated in the permit.

27 (d) Before the board may refuse to issue a permit, add terms or
28 conditions to a permit, modify the terms or conditions of a permit, or
29 revoke a permit, it must offer the applicant or holder of the permit
30 an opportunity to be heard by the board.

31 Sec. 26. SPACING AND PRODUCTION. (a) The board may adopt
32 rules to

33 (1) provide for spacing wells to be drilled to produce water
34 from the underground water in the district;

35 (2) regulate the production of wells producing water from the
36 underground water in the district.

37 (b) To be valid, a rule adopted under this section must relate to
38 minimizing as far as practicable the drawdown of the water table or the
39 reduction of artesian pressure, or to the prevention of any of the kinds
40 of waste of the underground water specified in Section 24 of this Act.

41 (c) Rules adopted under this section do not apply to wells drilled to
42 produce water to be used by an individual, a family, or a household for

43 (1) drinking water and cooking;

44 (2) washing;

45 (3) irrigating a garden or orchard, if the produce of the garden
46 or orchard is primarily to be eaten by the individual, family or household;

47 (4) watering animals.

48 Sec. 27. RECORDS AND REPORTS. The board may adopt rules
49 (1) requiring that records be kept and reports be made to the
50 board concerning

51 (A) drilling, equipping, and completing wells into the
52 underground water strata in the district;

53 (B) taking and using underground water in the district;

54 (2) requiring accurate driller's logs to be kept of wells into
55 underground water strata, and that driller's logs and any electric logs
56 kept be filed with the board.

57 Sec. 28. RULES RELATING TO CAPPING WELLS. The board
58 may adopt regulations implementing the requirements in Section 36 of
59 this Act relating to capping uncapped wells.

1 Sec. 29. PROJECTS. The board, through its employees and
2 agents, may

- 3 (1) construct and maintain dams;
- 4 (2) drain lakes, depressions, draws, and creeks;
- 5 (3) install and operate pumps and other equipment necessary to
6 recharge the underground water in the district;
- 7 (4) acquire land, by eminent domain or otherwise, to do the
8 things specified in Subdivisions (1) through (3) of this section.

9 Sec. 30. SURVEYS. The board may employ engineers to

- 10 (1) survey the underground water in the district and the facili-
11 ties for developing, producing, and using the underground water;
- 12 (2) determine the quality of the underground water available for
13 production and use and the improvements, developments, and recharges
14 needed in regard to the underground water in the district.

15 Sec. 31. PLANS. (a) The board shall develop comprehensive plans
16 for

- 17 (1) efficiently using the underground water in the districts;
 - 18 (2) controlling and preventing waste of the underground water.
- 19 (b) The board shall specify in the plans, to the maximum extent
20 practicable, the acts, procedure, performance and avoidance which are
21 or may be necessary to effect the plans, including specifications for
22 them.

23 (c) The board shall carry out research projects, develop informa-
24 tion, and determine limitations, if any, which should be made on
25 withdrawing underground water in the district.

26 (d) The board shall collect and preserve information regarding the
27 use of underground water in the district and the practicability of
28 recharging the underground water.

29 (e) The board shall publish plans and information developed under
30 this section, bring them to the attention of the users of underground
31 water in the district, and encourage the users to adopt and use the
32 information.

33 Sec. 32. WATER SUPPLY FOR MUNICIPALITIES. (a) The district
34 may purchase water rights and pipeline rights-of-way, drill wells, and
35 erect suitable storage and other facilities for the purpose of selling
36 water to municipalities within the district.

37 (b) The district may employ pumpers and well service personnel
38 and may purchase vehicles and gauges pertinent to operation. No
39 vehicle of the district may be used other than for official business.

40 (c) Rights of eminent domain are specifically excluded from pro-
41 ceedings or negotiations under this section.

42 (d) Amortization of bonds and operating expenses must be guaranteed
43 by the purchasers of the water, and any tax money spent for these pur-
44 poses must be refunded to the district.

45 SUBCHAPTER F. RIGHTS AND DUTIES 46 OF PERSONS IN THE DISTRICT.

47 Sec. 33. OWNERSHIP OF WATER. The ownership and rights of
48 the owner of the land and his lessees and assigns in underground water
49 are recognized, and this Act does not in any way deprive or divest the
50 owner or his assigns or lessees of that ownership or those rights,
51 subject, however, to the rules adopted under this Act.

52 Sec. 34. RESPONSIBILITY FOR COMPLYING. The owner of
53 underground water or his lessee, if there is one, is responsible for
54 complying with rules adopted by the board under this Act.

55 Sec. 35. ILLEGAL DRILLING AND PRODUCTION. Drilling a
56 well without a permit or drilling or operating a well in violation of the
57 terms and conditions of the permit, if a permit is required, and operat-
58 ing a well at a higher rate of production than the rate approved by the
59 board for the well, are each declared to be illegal, wasteful per se,
60 and a nuisance.

1 Sec. 36. CAPPING WELLS. The owner of underground water
2 being produced from an underground water well shall keep the well
3 capped with a covering capable of sustaining a pressure of at least
4 400 pounds, except when the well is in use, and shall comply with rules
5 adopted under Section 28 of this Act.

6 SUBCHAPTER G. MISCELLANEOUS PROVISIONS.

7 Sec. 37. EXCLUDING LAND FROM THE DISTRICT. (a) A person
8 who owns land over which the board is exercising authority or claiming
9 jurisdiction may petition the board for a hearing to determine whether
10 or not the land is or should be excluded from the district under
11 Section 4 of this Act.

12 (b) At the conclusion of the hearing, the land is a part of the district
13 if the board finds that the person has failed to establish

14 (1) with respect to land claimed to be excluded under Section 4(1)
15 of this Act, that the land was within the limits of an incorporated city or
16 town on the effective date of this Act; or

17 (2) with respect to land claimed to be excluded under Section 4(2)
18 of this Act, that the land has been included within the limits of an
19 incorporated city or town since the effective date of this Act, and that
20 exclusion of the land would defeat none of the regulatory purposes of this
21 Act; or

22 (3) with respect to land claimed to be excluded under Section 4(3)
23 of this Act, that there is no underground water under the land or that the
24 underground water cannot be brought to the surface at a cost that makes
25 bringing it to the surface economically feasible.

26 (c) If the board makes a contrary finding under Subsection (b)(1) of
27 this Section, the land has never been a part of the district. If the board
28 makes a contrary finding under Subsection (b)(2) or Subsection (b)(3) of
29 this section, the land is excluded from the district on the day the
30 person filed the petition with the board to determine whether or not the
31 land should be excluded.

32 Sec. 38. INCLUDING LAND IN THE DISTRICT. (a) The board
33 may order a hearing to determine whether or not land contiguous with the
34 district but not within the district should be included in the district.

35 (b) At the hearing, if the board finds that the owner of the land that
36 is the subject of the order has failed to establish that the exclusion of the
37 land defeats none of the regulatory purposes of this Act, it shall order
38 that the land is included in the district. The land is included on the day
39 the order is issued.

40 (c) If the board makes a contrary finding, the status of the land is
41 unchanged.

42 Sec. 39. DISSOLUTION. (a) The board may dissolve the district, if
43 it finds that the continued existence of the district will not best serve a
44 public purpose, either because conditions in the district have changed so
45 that regulation of underground water in the district is no longer neces-
46 sary, or because it would be more efficient to have that regulation
47 performed by some other agency.

48 (b) To dissolve the district, the board shall adopt a resolution
49 proposing dissolution using the procedure for adopting rules provided
50 for in Section 11 of this Act. After the resolution becomes effective, the
51 board shall appoint a trustee, who shall settle the affairs of the district
52 as quickly as possible. The trustee serves at the pleasure of the board,
53 and is entitled to reasonable compensation set by the board.

54 (c) The trustees shall reduce to possession, and money, all assets
55 and resources of the district, and shall apply the money to discharging
56 the outstanding obligations of the district, having regard to specific
57 funds. If it is necessary to do so, the board shall levy, assess, and
58 collect additional taxes to pay all necessary expenses and outstanding
59 obligations of the district.

1 (d) When all expenses and outstanding obligations are paid and the
2 trustee's account is verified, the board shall discharge the trustee.
3 When the trustee is discharged, the board shall enter of record its
4 final order of dissolution and record the order in the deed records of the
5 counties in which the district is located. The district is dissolved on
6 the date specified in the order. The board shall file a copy of the
7 dissolution order with the Texas Water Commission and mail a copy to
8 the Texas Legislative Council.

9 (e) The board shall pay to the counties in the district a propor-
10 tionate part of all money in the possession of the district not needed
11 to pay for expenses and outstanding obligations of the district when it is
12 dissolved.

13 **Sec. 40. APPLICATION.** The provisions of this Act do not apply
14 to a well drilled under a permit from the Railroad Commission of Texas.

15 **SUBCHAPTER H. ENFORCEMENT PROVISIONS.**

16 **Sec. 41. SUITS BY PRIVATE PERSONS.** (a) A person who has an
17 estate in land any part of which is within one-half mile of a well which
18 is being drilled or operated in a manner declared to be illegal in
19 Section 35 of this Act may sue or restrain or enjoin the illegal drilling
20 or operation or both. He may also sue to recover damages he has
21 suffered because of the illegal operation and for any further relief he is
22 entitled to at law or equity.

23 (b) In a suit for damages under this section, the operation of the
24 well in violation of rules adopted by the board is prima facie evidence of
25 illegal and illegitimate drainage.

26 (c) The suit for damages may be brought in the county where the
27 illegal well is located or in the county where any part of the affected
28 land of the plaintiff is located.

29 (d) The cause of action and the rights created by this section are
30 cumulative, and do not impair the rights of any other person or the
31 enforcement powers of the board.

32 (e) A suit brought under this section shall be advanced for trial and
33 be determined as expeditiously as possible, and no postponement or
34 continuance of the suit (including a first motion for postponement or
35 continuance) may be granted except for reasons deemed imperative by
36 the court.

37 **Sec. 42. SUITS BY THE BOARD.** The board shall sue for injunc-
38 tions, mandatory injunctions, and other appropriate remedies, to
39 compel persons to comply with rules adopted by the board and with the
40 provisions of Section 3 of this Act.

41 **SUBCHAPTER I. TEMPORARY PROVISIONS.**

42 **Sec. 43. INITIAL BOARD.** (a) On the effective date of this Act,
43 the following persons are the directors of the board: Precinct 1, Ford
44 Oglesby; Precinct 2, James L. Powell; Precinct 3, Bobby R. Sykes;
45 Precinct 4, Earl Lloyd; director-at-large, Mort Mertz.

46 (b) The term of office of the initial board members is from the
47 effective date of this Act until January 10, 1967.

48 **Sec. 44. EXPIRATION DATE.** If the board dissolves the district
49 under Section 39 of this Act, this Act expires on the day the dissolution
50 order is effective.

51 **Sec. 45. EMERGENCY CLAUSE.** The importance of this legisla-
52 tion and the crowded condition of the calendar in both houses create an
53 emergency and an imperative public necessity that the Constitutional
54 Rule requiring bills to be read on three several days in each house be
55 suspended, and the Rule is hereby suspended.

Fred Gunstead
Bill Gunstead

THE ELDORADO SUCCESS
Printers
ELDORADO, TEXAS

Office Phone 21771
Res. Phone 22681

NOTICE

This is to give notice of the intention to introduce a bill during the regular session of the 59th Legislature to create an underground water conservation and reclamation district in Schleicher County. The district will have a board of directors, and will be empowered to levy taxes, issue bonds, and generally to promote the protection and development of water supplies in the district.

(F25 Mar 4-11-18)

PUBLISHER'S AFFIDAVIT

State of Texas
County of Schleicher

Before me, a notary public in and for said county and state, personally appeared Fred Gunstead, publisher of the Eldorado Success, a newspaper published weekly at Eldorado in Schleicher County, who states that the attached NOTICE was published in said Eldorado Success for four successive weeks on the following dates;

Thursday, February 25, 1965

Thursday, March 4, 1965

Thursday, March 11, 1965

Thursday, March 18, 1965

Signed

Fred Gunstead
Publisher.

Sworn to subscribed before me this
22nd day of March, 1965.

Bonnie Sanford
Notary Public.

FORM C

(For a favorable report on a bill where a "committee substitute" was recommended by the committee.)

COMMITTEE REPORT

Date 5-19-65

HON. BEN BARNES

Speaker of the House of Representatives.

Sir:

We, your Committee on CONSERVATION & RECLAMATION, to whom was referred HB No. 1059, have had the same under consideration and beg to report back with recommendation that it do pass, and be not printed.

Committee Substitute was recommended and is to be printed in lieu of the original bill.

Walter H. Murray
Chairman.

(A "committee substitute" in the case of a bill is in the form of two suggested amendments, a new body and a new caption. Under the Rules a committee may authorize the printing of the "committee substitute" in lieu of the original bill. If the original caption is adequate, the "committee substitute" should be only a new body; and in such case the original caption should be printed along with the suggested new body.)

COMMITTEE AMENDMENT

NO. 1

McCluney

1 COMMITTEE AMENDMENT NO. 1

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7 Amend House Bill No. 1059 by striking all below the enacting clause
8 and substituting the following:

9

10 SUBCHAPTER A. GENERAL PROVISIONS.

11 Section 1. SHORT TITLE. This Act may be cited as the Plateau
12 Underground Water Conservation and Supply District Act.

13 Sec. 2. DEFINITIONS. In this Act, unless the context requires a
14 different definition:

15 (1) "person" includes firm, association, partnership, and
16 corporation;

17 (2) "underground water" means water suitable for agriculture,
18 gardening, domestic, or stock-raising uses, percolating below the earth's
19 surface;

20 (3) "district" means the Plateau Underground Water Conserva-
21 tion and Supply District;

22 (4) "board" means the board of directors of the district.

23 SUBCHAPTER B. ADMINISTRATION.

24 Sec. 3. CREATION OF DISTRICT. The Plateau Underground
25 Water Conservation and Supply District is created only in the event and
26 at such time an underground water reservoir or reservoir subdivision is
27 designated by the Texas Water Commission. Pursuant to the general
28 laws applicable to underground water conservation districts, the district
29 must be created with boundaries coterminous with an underground water
30 reservoir or subdivision thereof which theretofore has been designated as
31 such by the Texas Water Commission. At such time, the district is
32 created under Section 59, Article XVI, Constitution of the State of Texas.

33 Sec. 4. AREA OF DISTRICT. The district covers the same area
34 that Schleicher County covers, and all other area added by the board
35 under Section 38 of this Act, except area under which there is either no
36 underground water or no underground water that can be brought to the
37 surface at a cost that makes bringing it to the surface economically
38 feasible, which the board excludes under Section 37(c) of this Act.

39 Sec. 5. ESTABLISHMENT OF BOARD. The board of directors of
40 the Plateau Underground Water Conservation and Supply District is
41 established.

42 Sec. 6. COMPOSITION AND TERMS OF OFFICE. (a) The board
43 consists of five directors.

44 (b) The directors are elected at elections provided for in Section 10
45 of this Act. A director serves a two-year term.

46 (c) If a constitutional amendment is adopted authorizing directors of
47 conservation and reclamation districts to serve six-year terms, subsec-
48 tion (b) of this section is repealed on the day of the first election to elect
49 directors held under this Act after the constitutional amendment becomes
50 effective, and the directors serve six-year terms. At that election, two
51 directors are elected for two-year terms, two for four-year terms; and
52 one for a six-year term. The director-at-large is elected for the six-
53 year term. The board shall designate which precinct elects a director
54 for a two-year term and which for a four-year term. The board shall
55 conduct biennial elections after that election, at which directors are
56 elected for six-year terms to replace retiring directors.

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MAY 21 1965

DATE _____

READ AND ADOPTED

Dorothy Hallman
CHIEF CLERK
HOUSE OF REPRESENTATIVES

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1 (d) If a position on the board becomes vacant, a majority of the
2 remaining directors shall appoint another person to fill the vacated posi-
3 tion for the unexpired term.

4 (e) A director serves until his successor is elected.

5 Sec. 7. QUALIFICATION OF DIRECTORS. A person is qualified to
6 serve on the board who is elected or appointed to that position, and who

7 (1) is at least 21 years of age;

8 (2) owns real property in the district;

9 (3) is a resident of the district.

10 Sec. 8. ADMINISTRATOR AND EMPLOYEES. (a) The board may
11 employ an administrator and set his salary. The board may delegate any
12 of its powers and duties (except those of adopting rules, a dissolution
13 resolution, a dissolution order, and those relating to hearings, taxation,
14 and bonds) to the administrator, who may carry out powers and duties
15 delegated to him by the board. Employment of personnel is subject to
16 the general law on nepotism.

17 (b) The administrator, with the approval of the board, may employ
18 employees of the board and set their salaries, and hire legal counsel for
19 the board. If an employee or a member of his family is a member of the
20 board, the employee may not receive compensation for his services as
21 an employee.

22 Sec. 9. BOARD MEETINGS AND OFFICERS. (a) The board shall
23 hold regular quarterly meetings. It may hold other meetings at the call
24 of the chairman or at the request of at least two directors.

25 (b) A majority of the directors is a quorum for conducting business.

26 (c) The board shall elect its officers.

27 Sec. 10. ELECTIONS. (a) The board shall call an election to elect
28 directors to the board on the second Tuesday in January of each odd-
29 numbered year. The first election to elect directors under this Act is to
30 be held on January 10, 1967. In the event the district is not created by
31 January 9, 1967, as set out in Section 3 of this Act, the first election to
32 elect directors under this Act is to be held immediately after creation of
33 the district and the election held under this provision shall be conducted
34 under the general laws of the state relating to elections.

35 (b) The board shall conduct an election held under this Act under the
36 general laws of the state relating to elections.

37 (c) No board member may serve continuously for more than two
38 terms.

39 (d) The board shall pay for the cost of elections with money of the
40 district.

41 (e) No board member may hold any office of emolument.

42 SUBCHAPTER C. ADMINISTRATIVE PROCEDURE.

43 Sec. 11. PROCEDURE FOR ADOPTING AND AMENDING RULES.

44 (a) Before the board may adopt or amend a rule under this Act, it
45 must publish a brief summary of the rule or the amendment in one or
46 more newspapers as it decides is necessary to give the summary general
47 circulation throughout the district. The board must publish the summary
48 one time a week for two weeks.

49 (b) The rule or amendment takes effect on the fourteenth day after
50 the day the summary is published the second time, unless

51 (1) the board specifies that it takes effect at a later time; or

52 (2) the board rescinds the order adopting the rule or amendment.

53 (c) The board may rescind the order for (but it may not change) a
54 rule or amendment from the time the summary is first published until
55 after the rule or amendment takes effect. After the rule or amendment
56 takes effect, the board may change or repeal it only by adopting a rule
57 repealing or amending it.

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1 (d) If the board rescinds an order for a rule or amendment, it may
2 adopt a new rule or amendment at any time, even though the new rule or
3 amendment is on the same subject as the rule or amendment rescinded.

4 Sec. 12. DECLARATORY JUDGMENT ON VALIDITY OF RULES.

5 (a) The validity of a rule adopted under this Act may be determined
6 upon petition for a declaratory judgment on the validity of the rule
7 addressed to a district court sitting in the Plateau Underground Water
8 Conservation and Supply District, when it appears that the rule, or its
9 threatened application, interferes with or impairs, or threatens to
10 interfere with or impair, the legal rights or privileges of the petitioner.
11 The board shall be made a party to the proceeding. The declaratory
12 judgment may be rendered whether or not the petitioner has first
13 requested the board to pass upon the validity of the rule in question.

14 (b) The court shall declare the rule invalid if it finds that the rule
15 violates constitutional provisions, exceeds the statutory authority of the
16 board, or was adopted without complying with Section 11 of this Act.

17 Sec. 13. DEFINITION. In Sections 13 through 20 of this Act,
18 "contested case" means a proceeding before the board in which the legal
19 rights, duties, or privileges of specific parties are required by law or
20 constitutional right to be determined after a board hearing.

21 Sec. 14. HEARING OFFICER. (a) In a contested case, the board
22 shall employ an attorney to serve as the hearing officer in the hearing.
23 At the hearing, the hearing officer shall

24 (1) preside over the hearing;

25 (2) rule on the admissibility of evidence;

26 (3) prepare the record, decision, and order of the board and
27 the notices for the hearing;

28 (4) assist the board in all legal matters connected with the
29 hearing.

30 (b) The hearing officer may vote only to break a tie.

31 (c) If a member of the board is an attorney, the board may desig-
32 nate that he is the hearing officer, rather than employ another attorney
33 to be the hearing officer. In that case, Subsection (b) of this section
34 does not apply.

35 Sec. 15. NOTICE, HEARING, RECORDS. (a) All parties shall be
36 afforded an opportunity for hearing after reasonable notice. The notice
37 shall state the time, place, and issues involved, but if, because of the
38 nature of the proceeding, the issues cannot be fully stated in advance of
39 the hearing, or if subsequent amendment of the issues is necessary, the
40 issues shall be fully stated as soon as practicable, and opportunity shall
41 be afforded all parties to present evidence and argument with respect
42 to the issues.

43 (b) The board shall prepare an official record, including testimony
44 and exhibits, in each contested case, and shall prepare a mechanical
45 recording of the proceedings. It is not necessary to transcribe the
46 recording unless the transcription is requested for purposes of rehearing
47 or court review.

48 (c) Informal disposition may also be made of any contested case by
49 stipulation, agreed settlement, consent order, or default.

50 (d) The board shall adopt appropriate rules of procedure for notice
51 and hearing in contested cases.

52 Sec. 16. RULES OF EVIDENCE. (a) In contested cases, the
53 board may admit and give probative effect to evidence which possesses
54 probative value commonly accepted by reasonably prudent men in the con-
55 duct of their affairs. The board shall give effect to the rules of privilege
56 recognized by law. It may exclude incompetent, irrelevant, immaterial,
57 and unduly repetitious evidence.

1 (b) All evidence, including those of the board's records and docu-
2 ments it desires to use, shall be offered and made a part of the record
3 in the case, and no other factual information or evidence shall be con-
4 sidered in the determination of the case. Documentary evidence may be
5 received in the form of copies or excerpts, or by incorporation by
6 reference.

7 (c) Every party has the right to cross-examine witnesses who
8 testify, and has the right to submit rebuttal evidence.

9 Sec. 17. OFFICIAL NOTICE. The board may take notice of judi-
10 cially cognizable facts and in addition may take notice of general, tech-
11 nical, and scientific facts within its specialized knowledge. Parties
12 shall be notified either before or during hearing, or by reference in
13 preliminary reports or otherwise, of the material so noticed, and they
14 shall be afforded an opportunity to contest the facts so noticed. The
15 board may use its experience, technical competence, and specialized
16 knowledge in evaluating the evidence presented to it.

17 Sec. 18. EXAMINATION OF EVIDENCE BY BOARD. When in a
18 contested case a majority of the directors of the board who are to render
19 the final decision have not heard or read the evidence, the decision, if
20 adverse to the party to the proceeding other than the board itself, shall
21 not be made until a proposal for decision, including findings of fact and
22 conclusions of law, has been served upon the parties and an opportunity
23 has been afforded to each party adversely affected to file exceptions and
24 present argument to a majority of the directors who are to render the
25 decision, who shall personally consider the whole record or as much of
26 it as may be cited by the parties.

27 Sec. 19. DECISIONS AND ORDERS. Every decision and order ad-
28 verse to a party to the proceeding, rendered by the board in a contested
29 case, shall be in writing or stated in the record and shall be accompanied
30 by findings of fact and conclusions of law for each contested issue.
31 Parties to the proceeding shall be notified of the decision and order in
32 person or by mail. A copy of the decision and order and accompanying
33 findings and conclusions shall be delivered or mailed upon request to
34 each party or to his attorney of record.

35 Sec. 20. JUDICIAL REVIEW OF CONTESTED CASES. (a) A party
36 aggrieved by a final decision in a contested case, whether the decision is
37 affirmative or negative in form, is entitled to judicial review of the de-
38 cision.

39 (b) Review shall be instituted by filing a written statement complain-
40 ing of the board's decision in a district court within the boundaries of the
41 district within 30 days after service of the final decision of the board.
42 The statement shall specify concisely each finding, conclusion, or action
43 of the board with which the aggrieved party disagrees. Copies of the
44 statement shall be served upon the board and all other parties of record.
45 The court, in its discretion, may permit other interested persons to
46 intervene.

47 (c) Filing the petition does not stay enforcement of the board's de-
48 cision; but the board may do so, or the reviewing court may order a stay
49 upon such terms as it deems proper.

50 (d) Within 30 days after service of the statement, or within such
51 further time as the court may allow, the board shall transmit to the re-
52 viewing court the original or a certified copy of the entire record of the
53 proceeding under review; but, by stipulation of all parties to the review
54 proceeding, the record may be shortened. A party unreasonably refusing
55 to stipulate to limit the record may be taxed by the court for the additional
56 costs caused by his refusal. The court may require or permit subsequent
57 corrections or additions to the record when deemed desirable.

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1 (e) If, before the date set for hearing, application is made to the court
2 for leave to present additional evidence on the issues in the case, and it is
3 shown to the satisfaction of the court that the additional evidence is ma-
4 terial and that there was good reason for failing to present it in the pro-
5 ceeding before the board, the court may order that the additional evidence
6 be taken before the board upon such conditions as the court deems proper.
7 The board may add to or modify its findings, conclusions, and decision in
8 the light of the additional evidence and shall file with the court, as part of
9 the record, the additional evidence, together with any additions or modifi-
10 cations to its findings, conclusions, or decision.

11 (f) The review shall be conducted by the court and shall be confined
12 to the record, except that in cases of alleged irregularities in procedure
13 before the board, not shown in the record, testimony on the alleged
14 irregularities may be taken in court. The court shall, on request, hear
15 oral argument and receive written briefs.

16 (g) The court may affirm the decision of the board or remand the
17 case for further proceedings; or it may reverse or modify the decision
18 if the substantial rights of a party may have been prejudiced because the
19 board's findings, inferences, conclusions, or decisions are

20 (1) in violation of constitutional provisions;

21 (2) in excess of the statutory authority or jurisdiction of the
22 board;

23 (3) made upon unlawful procedure;

24 (4) affected by other error of law;

25 (5) unsupported by competent, material, and substantial evi-
26 dence in view of the entire record as submitted; or

27 (6) arbitrary or capricious.

28 SUBCHAPTER D. FINANCIAL PROVISIONS.

29 Sec. 21. TAXATION. (a) The board may levy and collect property
30 taxes levied on the property in the district that are necessary to enable
31 the board to perform the powers and functions given it in this Act.

32 (b) The board may levy annual taxes not to exceed thirty-five cents ^{35¢}
33 on the one hundred dollars valuation on all taxable property within the
34 district. The board may not levy or collect property taxes at a rate
35 greater than the number of cents per one hundred dollar valuation based
36 on Schleicher County valuations necessary to provide net fund of no
37 greater than ~~ten thousand~~ ^{10,000} dollars unless a district-wide election is held
38 to provide a raise in taxes.

39 Sec. 22. BONDS. (a) The board may issue bonds to finance opera-
40 tions and construct projects authorized under this Act.

41 (b) The general law on water control and improvement districts,
42 relating to issuing bonds and retiring bond issues, elections on bond
43 issues, and elections in assuming and discharging tax liability for bonds,
44 applies to issuing bonds and retiring bond issues by the board.

45 (c) The provisions of Section 139, Chapter 25, General Laws, Acts
46 of the 39th Legislature, Regular Session, 1925 (Article 7880-139,
47 Vernon's Texas Civil Statutes), relating to approval of plans and speci-
48 fications for projects to be financed by the sale of bonds, apply to the
49 sale of bonds under this Act.

50 SUBCHAPTER E. POWERS AND DUTIES OF THE BOARD.

51 Sec. 23. CONSERVATION RULES. The board may adopt rules for
52 the purpose of conserving, preserving, protecting, and recharging the
53 underground water in the district.

54 Sec. 24. WASTE. The board may adopt rules designed to prevent
55 waste of the underground water in the district. Nothing contained herein
56 shall in any way amend, alter, or otherwise change the declaration of
57 water priorities and appropriation thereof as set out in Article 7471,
58 Revised Civil Statutes of Texas, 1925.

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1 Sec. 25. PERMITS. (a) The board may adopt rules requiring a
2 person to obtain a permit from the board before he may drill, equip,
3 complete, or substantially alter the size of a well or the size of a pump
4 used in connection with the well.

5 (b) The board may add whatever terms and conditions to the permit
6 and modify the terms and conditions, that are necessary to insure that
7 drilling, equipping, completing, or substantially altering the size of a
8 well or the size of a pump used in connection with the well will

9 (1) preserve and conserve the underground water in the district;

10 (2) prevent any of the kinds of waste of the underground water
11 specified in Section 24 of this Act;

12 (3) minimize as far as practicable the drawdown of the water
13 table or the reduction of artesian pressure;

14 (4) lessen interference between wells.

15 (c) a permit issued under this section is conditional and the board
16 may revoke it if the person to whom it was issued does not comply with
17 rules adopted under Sections 23 through 28 of this Act or with the terms
18 and conditions stated in the permit.

19 (d) Before the board may refuse to issue a permit, add terms or
20 conditions to a permit, modify the terms or conditions of a permit, or
21 revoke a permit, it must offer the applicant or holder of the permit an
22 opportunity to be heard by the board.

23 Sec. 26. SPACING AND PRODUCTION. (a) The board may adopt
24 rules to

25 (1) provide for spacing wells to be drilled to produce water
26 from the underground water in the district;

27 (2) regulate the production of wells producing water from the
28 underground water in the district.

29 (b) To be valid, a rule adopted under this section must relate to
30 minimizing as far as practicable the drawdown of the water table or the
31 reduction of artesian pressure, or to the prevention of any of the kinds
32 of waste of the underground water specified in Section 24 of this Act.

33 (c) Rules adopted under this section do not apply to wells drilled to
34 produce water to be used by an individual, a family, or a household for

35 (1) drinking water and cooking;

36 (2) washing;

37 (3) irrigating a garden or orchard, if the produce of the garden
38 or orchard is primarily to be eaten by the individual, family, or house-
39 hold;

40 (4) watering animals.

41 (d) If the board sees fit, it may require that not more than one well
42 producing more than 500 gallons a minute be drilled on 80 acres.

43 Sec. 27. RECORDS AND REPORTS. The board may adopt rules

44 (1) requiring that records be kept and reports be made to the
45 board concerning

46 (A) drilling, equipping, and completing wells into the under-
47 ground water strata in the district;

48 (B) taking and using underground water in the district;

49 (2) requiring accurate driller's logs to be kept of wells into
50 underground water strata, and that driller's logs and any electric logs
51 kept be filed with the board.

52 Sec. 28. RULES RELATING TO CAPPING WELLS. The board may
53 adopt regulations implementing the requirements in Section 36 of this
54 Act relating to capping uncapped wells.

1 Sec. 29. PROJECTS. The board, through its employees and agents,
2 may

3 (1) construct and maintain dams;

4 (2) drain lakes, depressions, draws, and creeks;

5 (3) install and operate pumps and other equipment necessary to
6 recharge the underground water in the district;

7 (4) acquire land, by eminent domain or otherwise, to do the
8 things specified in Subdivisions (1) through (3) of this section.

9 Sec. 30. SURVEYS. The board may employ engineers to

10 (1) survey the underground water in the district and the facilities
11 for developing, producing, and using the underground water;

12 (2) determine the quality of the underground water available for
13 production and use and the improvements, developments, and recharges
14 needed in regard to the underground water in the district.

15 Sec. 31. PLANS. (a) The board shall develop comprehensive plans
16 for

17 (1) efficiently using the underground water in the districts;

18 (2) controlling and preventing waste of the underground water.

19 (b) The board shall specify in the plans, to the maximum extent
20 practicable, the acts, procedure, performance and avoidance which are
21 or may be necessary to effect the plans, including specifications for them.

22 (c) The board shall carry out research projects, develop information,
23 and determine limitations, if any, which should be made on withdrawing
24 underground water in the district.

25 (d) The board shall collect and preserve information regarding the
26 use of underground water in the district and the practicability of recharg-
27 ing the underground water.

28 (e) The board shall publish plans and information developed under
29 this section, bring them to the attention of the users of underground water
30 in the district, and encourage the users to adopt and use the information.

31 Sec. 32. WATER SUPPLY FOR MUNICIPALITIES. (a) The district
32 may purchase water rights and pipeline rights-of-way, drill wells, and
33 erect suitable storage and other facilities for the purpose of selling water
34 to municipalities within the district.

35 (b) The district may employ pumpers and well service personnel and
36 may purchase vehicles and gauges pertinent to operation. No vehicle of
37 the district may be used other than for official business.

38 (c) Rights of eminent domain are specifically excluded from proceed-
39 ings or negotiations under this section.

40 (d) Amortization of bonds and operating expenses must be guaranteed
41 by the purchasers of the water, and any tax money spent for these pur-
42 poses must be refunded to the district.

43 SUBCHAPTER F. RIGHTS AND DUTIES

44 OF PERSONS IN THE DISTRICT.

45 Sec. 33. OWNERSHIP OF WATER. The ownership and rights of the
46 owner of the land and his lessees and assigns in underground water are
47 recognized, and this Act does not in any way deprive or divest the owner
48 or his assigns or lessees of that ownership or those rights, subject, how-
49 ever, to the rules adopted under this Act.

50 Sec. 34. RESPONSIBILITY FOR COMPLYING. The owner of under-
51 ground water or his lessee, if there is one, is responsible for complying
52 with rules adopted by the board under this Act.

53 Sec. 35. ILLEGAL DRILLING AND PRODUCTION. Drilling a well
54 without a permit or drilling or operating a well in violation of the terms
55 and conditions of the permit, if a permit is required, and operating a well
56 at a higher rate of production than the rate approved by the board for the
57 well, are each declared to be illegal, wasteful per se, and a nuisance.

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1 Sec. 36. CAPPING WELLS. The owner of underground water being
2 produced from an underground water well shall keep the well capped with
3 a covering capable of sustaining a pressure of at least 400 pounds, except
4 when the well is in use, and shall comply with rules adopted under Sec-
5 tion 28 of this Act.

6 SUBCHAPTER G. MISCELLANEOUS PROVISIONS.

7 Sec. 37. EXCLUDING LAND FROM THE DISTRICT. (a) A person
8 who owns land over which the board is exercising authority or claiming
9 jurisdiction may petition the board for a hearing to determine whether or
10 not the land is or should be excluded from the district. There will be no
11 exclusion of any property after bonds are voted.

12 (b) At the conclusion of the hearing, the land is a part of the district
13 if the board finds that the person has failed to establish that there is no
14 underground water under the land or that the underground water cannot
15 be brought to the surface at a cost that makes bringing it to the surface
16 economically feasible.

17 (c) If the board makes a contrary finding under Subsection (b) of this
18 section, the land is excluded from the district on the day the person filed
19 the petition with the board to determine whether or not the land should be
20 excluded.

21 Sec. 38. (a) INCLUDING LAND IN THE DISTRICT. Land may be
22 included in the district under the provisions of the general annexation law
23 relating to underground water control and improvement districts.

24 (b) APPLICATION. The provisions of this Act do not apply to a well
25 drilled under a permit from the Railroad Commission of Texas.

26 Sec. 39. DISSOLUTION. (a) The board may dissolve the district if it
27 finds that the continued existence of the district will not best serve a
28 public purpose, either because conditions in the district have changed so
29 that regulation of underground water in the district is no longer neces-
30 sary, or because it would be more efficient to have that regulation
31 performed by some other agency.

32 (b) To dissolve the district, the board shall adopt a resolution
33 proposing dissolution using the procedure for adopting rules provided for
34 in Section 11 of this Act. After the resolution becomes effective, the
35 board shall appoint a trustee, who shall settle the affairs of the district
36 as quickly as possible. The trustee serves at the pleasure of the board,
37 and is entitled to reasonable compensation set by the board.

38 (c) The trustee shall reduce to possession, and money, all assets
39 and resources of the district, and shall apply the money to discharging
40 the outstanding obligations of the district, having regard to specific funds.
41 If it is necessary to do so, the board shall levy, assess, and collect
42 additional taxes to pay all necessary expenses and outstanding obligations
43 of the district.

44 (d) When all expenses and outstanding obligations are paid and the
45 trustee's account is verified, the board shall discharge the trustee.
46 When the trustee is discharged, the board shall enter of record its final
47 order of dissolution and record the order in the deed records of the
48 counties in which the district is located. The district is dissolved on
49 the date specified in the order. The board shall file a copy of the dis-
50 solution order with the Texas Water Commission and mail a copy to the
51 Texas Legislative Council.

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1 (e) The board shall pay to the counties in the district a proportionate
2 part of all money in the possession of the district not needed to pay for
3 expenses and outstanding obligations of the district when it is dissolved.

4 Sec. 40. LEGISLATIVE FINDINGS. The Legislature finds that the
5 boundaries of the aquifer in the district are reasonably consistent with
6 the county lines of Schleicher County; that all of the land and other
7 property included within the area and boundaries of the district will be
8 benefited by the works and projects which are to be accomplished by
9 the district pursuant to the powers granted it by this Act; and that the
10 district is created to serve a public use and benefit.

11 SUBCHAPTER H. ENFORCEMENT PROVISIONS.

12 Sec. 41. SUITS BY THE BOARD. The board shall sue for injunctions,
13 mandatory injunctions, and other appropriate remedies, to compel persons
14 to comply with rules adopted by the board and with the provisions of Sec-
15 tion 3 of this Act.

16 SUBCHAPTER I. TEMPORARY PROVISIONS.

17 Sec. 42. INITIAL BOARD. (a) On the effective date of the creation
18 of this district, as set out in Section 3 of this Act, the following persons
19 are the directors of the board: Precinct 1, Ford Oglesby; Precinct 2,
20 James L. Powell; Precinct 3, Bobby R. Sykes; Precinct 4, Earl Lloyd;
21 director-at-large, Mort Merz.

22 (b) The term of office of the initial board members is from the
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24 this Act until January 10, 1967. In the event the effective date of the
25 creation of this district is after January 10, 1967, the term of office of
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27 the district, as set out in Section 3 of this Act, until January 10, 1969.

28 Sec. 43. EXPIRATION DATE. If the board dissolves the district
29 under Section 39 of this Act, this Act expires on the day the dissolution
30 order is effective.

31 Sec. 44. SEVERANCE AND SAVINGS CLAUSE. If any provision of
32 this Act or the application thereof to any person or circumstance is held
33 invalid, such invalidity shall not affect other provisions or applications of
34 this Act which can be given effect without the invalid provisions or appli-
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36 severable.

37 Sec. 45. EMERGENCY CLAUSE. The importance of this legislation
38 and the crowded condition of the calendar in both houses create an emer-
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42 be in force from and after its passage, and it is so enacted.

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By: Nugent of Kerr

H. B. No. 1059

A BILL TO BE ENTITLED

AN ACT

relating to the creation, organization, powers, and duties of an underground water conservation district located in Schleicher County; and declaring an emergency.

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

SUBCHAPTER A. GENERAL PROVISIONS.

Section 1. SHORT TITLE. This Act may be cited as the Plateau Underground Water Conservation and Supply District Act.

Sec. 2. DEFINITIONS. In this Act, unless the context requires a different definition:

(1) "person" includes firm, association, partnership, and corporation;

(2) "underground water" means water suitable for agriculture, gardening, domestic, or stock-raising uses, percolating below the earth's surface;

(3) "district" means the Plateau Underground Water Conservation and Supply District;

(4) "board" means the board of directors of the district.

SUBCHAPTER B. ADMINISTRATION.

Sec. 3. CREATION OF DISTRICT. The Plateau Underground Water Conservation and Supply District is created only in the event and at such time an underground water reservoir or reservoir subdivision is designated by the Texas Water Commission. Pursuant to the general laws applicable to underground water conservation districts, the district must be created with boundaries coterminous

with an underground water reservoir or subdivision thereof which theretofore has been designated as such by the Texas Water Commission. At such time, the district is created under Section 59, Article XVI, Constitution of the State of Texas.

Sec. 4. AREA OF DISTRICT. The district covers the same area that Schleicher County covers, and all other area added by the board under Section 38 of this Act, except area under which there is either no underground water or no underground water that can be brought to the surface at a cost that makes bringing it to the surface economically feasible, which the board excludes under Section 37(c) of this Act.

Sec. 5. ESTABLISHMENT OF BOARD. The board of directors of the Plateau Underground Water Conservation and Supply District is established.

Sec. 6. COMPOSITION AND TERMS OF OFFICE. (a) The board consists of five directors.

(b) The directors are elected at elections provided for in Section 10 of this Act. A director serves a two-year term.

(c) If a constitutional amendment is adopted authorizing directors of conservation and reclamation districts to serve six-year terms, Subsection (b) of this Section is repealed on the day of the first election to elect directors held under this Act after the constitutional amendment becomes effective, and the directors serve six-year terms. At that election, two directors are elected for two-year terms; two for four-year terms; and one for a six-year term. The director-at-large is elected for the

six-year term. The board shall designate which precinct elects a director for a two-year term and which for a four-year term. The board shall conduct biennial elections after that election, at which directors are elected for six-year terms to replace retiring directors.

(d) If a position on the board becomes vacant, a majority of the remaining directors shall appoint another person to fill the vacated position for the unexpired term.

(e) A director serves until his successor is elected.

Sec. 7. QUALIFICATION OF DIRECTORS. A person is qualified to serve on the board who is elected or appointed to that position, and who

- (1) is at least 21 years of age;
- (2) owns real property in the district;
- (3) is a resident of the district.

Sec. 8. ADMINISTRATOR AND EMPLOYEES. (a) The board may employ an administrator and set his salary. The board may delegate any of its powers and duties (except those of adopting rules, a dissolution resolution, a dissolution order, and those relating to hearings, taxation, and bonds) to the administrator, who may carry out powers and duties delegated to him by the board. Employment of personnel is subject to the general law on nepotism.

(b) The administrator, with the approval of the board, may employ employees of the board and set their salaries, and hire legal counsel for the board. If an employee or a member of his family is a member of the board, the employee may not receive

compensation for his services as an employee.

Sec. 9. BOARD MEETINGS AND OFFICERS. (a) The board shall hold regular quarterly meetings. It may hold other meetings at the call of the chairman or at the request of at least two directors.

(b) A majority of the directors is a quorum for conducting business.

(c) The board shall elect its officers.

Sec. 10. ELECTIONS. (a) The board shall call an election to elect directors to the board on the second Tuesday in January of each odd-numbered year. The first election to elect directors under this Act is to be held on January 10, 1967. In the event the district is not created by January 9, 1967, as set out in Section 3 of this Act, the first election to elect directors under this Act is to be held immediately after creation of the district and the election held under this provision shall be conducted under the General Laws of the State relating to elections.

(b) The board shall conduct an election held under this Act under the General Laws of the State relating to elections.

(c) No board member may serve continuously for more than two terms.

(d) The board shall pay for the cost of elections with money of the district.

(e) No board member may hold any office of emolument.

SUBCHAPTER C. ADMINISTRATIVE PROCEDURE.

Sec. 11. PROCEDURE FOR ADOPTING AND AMENDING RULES.

(a) Before the board may adopt or amend a rule under this Act, it must publish a brief summary of the rule or the amendment

in one or more newspapers as it decides is necessary to give the summary general circulation throughout the district. The Board must publish the summary one time a week for two weeks.

(b) The rule or amendment takes effect on the fourteenth day after the day the summary is published the second time, unless

(1) the board specifies that it takes effect at a later time; or

(2) the board rescinds the order adopting the rule or amendment.

(c) The board may rescind the order for (but it may not change) a rule or amendment from the time the summary is first published until after the rule or amendment takes effect. After the rule or amendment takes effect, the board may change or repeal it only by adopting a rule repealing or amending it.

(d) If the board rescinds an order for a rule or amendment, it may adopt a new rule or amendment at any time, even though the new rule or amendment is on the same subject as the rule or amendment rescinded.

Sec. 12. DECLARATORY JUDGMENT ON VALIDITY OF RULES.

(a) The validity of a rule adopted under this Act may be determined upon petition for a declaratory judgment on the validity of the rule addressed to a district court sitting in the Plateau Underground Water Conservation and Supply District, when it appears that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the petitioner. The board shall be

made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the board to pass upon the validity of the rule in question.

(b) The court shall declare the rule invalid if it finds that the rule violates constitutional provisions, exceeds the statutory authority of the board, or was adopted without complying with Section 11 of this Act.

Sec. 13. DEFINITION. In Sections 13 through 20 of this Act, "contested case" means a proceeding before the board in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a board hearing.

Sec. 14. HEARING OFFICER. (a) In a contested case, the board shall employ an attorney to serve as the hearing officer in the hearing. At the hearing, the hearing officer shall

- (1) preside over the hearing;
- (2) rule on the admissibility of evidence;
- (3) prepare the record, decision, and order of the board and the notices for the hearing;
- (4) assist the board in all legal matters connected with the hearing.

(b) The hearing officer may vote only to break a tie.

(c) If a member of the board is an attorney, the board may designate that he is the hearing officer, rather than employ another attorney to be the hearing officer. In that case, Subsection (b) of this Section does not apply.

Sec. 15. NOTICE, HEARING, RECORDS. (a) All parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place, and issues involved, but if, because of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, the issues shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect to the issues.

(b) The board shall prepare an official record, including testimony and exhibits, in each contested case, and shall prepare a mechanical recording of the proceedings. It is not necessary to transcribe the recording unless the transcription is requested for purposes of rehearing or court review.

(c) Informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(d) The board shall adopt appropriate rules of procedure for notice and hearing in contested cases.

Sec. 16. RULES OF EVIDENCE. (a) In contested cases, the board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The board shall give effect to the rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(b) All evidence, including those of the board's records and documents it desires to use, shall be offered and made a part of the record in the case, and no other factual information

or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(c) Every party has the right to cross-examine witnesses who testify, and has the right to submit rebuttal evidence.

Sec. 17. OFFICIAL NOTICE. The board may take notice of judicially cognizable facts and in addition may take notice of general, technical, and scientific facts within its specialized knowledge. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The board may use its experience, technical competence, and specialized knowledge in evaluating the evidence presented to it.

Sec. 18. EXAMINATION OF EVIDENCE BY BOARD. When in a contested case a majority of the directors of the board who are to render the final decision have not heard or read the evidence, the decision, if adverse to the party to the proceeding other than the board itself, shall not be made until a proposal for decision, including findings of fact and conclusions of law, has been served upon the parties and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to a majority of the directors who are to render the decision, who shall personally consider the whole record or as much of it as may be cited by the parties.

Sec. 19. DECISIONS AND ORDERS. Every decision and order adverse to a party to the proceeding, rendered by the board in a

contested case, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law for each contested issue. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or to his attorney of record.

Sec. 20. **JUDICIAL REVIEW OF CONTESTED CASES.** (a) A party aggrieved by a final decision in a contested case, whether the decision is affirmative or negative in form, is entitled to judicial review of the decision.

(b) Review shall be instituted by filing a written statement complaining of the board's decision in a district court within the boundaries of the district within 30 days after service of the final decision of the board. The statement shall specify concisely each finding, conclusion, or action of the board with which the aggrieved party disagrees. Copies of the statement shall be served upon the board and all other parties of record. The court, in its discretion, may permit other interested persons to intervene.

(c) Filing the petition does not stay enforcement of the board's decision; but the board may do so, or the reviewing court may order a stay upon such terms as it deems proper.

(d) Within 30 days after service of the statement or within such further time as the court may allow, the board shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation

of all parties to the review proceeding, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs caused by his refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there was good reason for failing to present it in the proceeding before the Board, the court may order that the additional evidence be taken before the board upon such conditions as the court deems proper. The board may add to or modify its findings, conclusions, and decision in the light of the additional evidence and shall file with the court, as part of the record, the additional evidence, together with any additions or modifications to its findings, conclusions, or decision.

(f) The review shall be conducted by the court and shall be confined to the record, except that in cases of alleged irregularities in procedure before the board, not shown in the record, testimony on the alleged irregularities may be taken in court. The court shall, on request, hear oral argument and receive written briefs.

(g) The court may affirm the decision of the board or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of a party may have been prejudiced because the board's findings, inferences, conclusions, or decisions are

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the board;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by competent, material, and substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.

SUBCHAPTER D. FINANCIAL PROVISIONS.

Sec. 21. TAXATION. (a) The board may levy and collect property taxes levied on the property in the district that are necessary to enable the board to perform the powers and functions given it in this Act.

(b) The board may levy annual taxes not to exceed thirty-five cents (35¢) on the one hundred dollar valuation on all taxable property within the district. The board may not levy or collect property taxes at a rate greater than the number of cents per one hundred dollar valuation based on Schleicher County valuations necessary to provide net fund or no greater than Ten Thousand Dollars (\$10,000) unless a district-wide election is held to provide a raise in taxes.

Sec. 22. BONDS. (a) The board may issue bonds to finance operations and construct projects authorized under this Act.

(b) The general law on water control and improvement districts, relating to issuing bonds and retiring bond issues, elections on bond issues, and elections in assuming and discharging tax

liability for bonds, applies to issuing bonds and retiring bond issues by the board.

(c) The provisions of Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880-139, Vernon's Texas Civil Statutes), relating to approval of plans and specifications for projects to be financed by the sale of bonds, apply to the sale of bonds under this Act.

SUBCHAPTER E. POWERS AND DUTIES OF THE BOARD.

Sec. 23. **CONSERVATION RULES.** The board may adopt rules for the purpose of conserving, preserving, protecting, and recharging the underground water in the district.

Sec. 24. **WASTE.** The board may adopt rules designed to prevent waste of the underground water in the district. Nothing contained herein shall in any way amend, alter, or otherwise change the declaration of water priorities and appropriation thereof as set out in Article 7471, Revised Civil Statutes of Texas, 1925.

Sec. 25. **PERMITS.** (a) The board may adopt rules requiring a person to obtain a permit from the board before he may drill, equip, complete, or substantially alter the size of a well or the size of a pump used in connection with the well.

(b) The board may add whatever terms and conditions to the permit and modify the terms and conditions, that are necessary to insure that drilling, equipping, completing, or substantially altering the size of a well or the size of a pump used in connection with the well will

(1) preserve and conserve the underground water in the district;

(2) prevent any of the kinds of waste of the underground water specified in Section 24 of this Act;

(3) minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure;

(4) lessen interference between wells.

(c) a permit issued under this Section is conditional and the board may revoke it if the person to whom it was issued does not comply with rules adopted under Sections 23 through 28 of this Act or with the terms and conditions stated in the permit.

(d) Before the board may refuse to issue a permit, add terms or conditions to a permit, modify the terms or conditions of a permit, or revoke a permit, it must offer the applicant or holder of the permit an opportunity to be heard by the board.

Sec. 26. SPACING AND PRODUCTION. (a) The board may adopt rules to

(1) provide for spacing wells to be drilled to produce water from the underground water in the district;

(2) regulate the production of wells producing water from the underground water in the district.

(b) To be valid, a rule adopted under this Section must relate to minimizing as far as practicable the drawdown of the water table or the reduction of artesian pressure, or to the prevention of any of the kinds of waste of the underground water specified in Section 24 of this Act.

(c) Rules adopted under this Section do not apply to wells drilled to produce water to be used by an individual, a family, or a household for

- (1) drinking water and cooking; _____
- (2) washing; _____
- (3) irrigating a garden or orchard, if the produce of the garden or orchard is primarily to be eaten by the individual, family, or household; _____
- (4) watering animals. _____

(d) If the board sees fit, it may require that not more than one well producing more than 500 gallons a minute be drilled on 80 acres. _____

Sec. 27. RECORDS AND REPORTS. The board may adopt rules

(1) requiring that records be kept and reports be made to the board concerning _____

(A) drilling, equipping, and completing wells into the underground water strata in the district;

(B) taking and using underground water in the district;

(2) requiring accurate driller's logs to be kept of wells into underground water strata, and that driller's logs and any electric logs kept be filed with the board. _____

Sec. 28. RULES RELATING TO CAPPING WELLS. The board may adopt regulations implementing the requirements in Section 36 of this Act relating to capping uncapped wells. _____

Sec. 29. PROJECTS. The board, through its employees and agents, may _____

- (1) construct and maintain dams;
- (2) drain lakes, depressions, draws, and creeks;
- (3) install and operate pumps and other equipment necessary to recharge the underground water in the district;

(4) acquire land, by eminent domain or otherwise, to do the things specified in Subdivisions (1) through (3) of this Section.

Sec. 30. SURVEYS. The board may employ engineers to

(1) survey the underground water in the district and the facilities for developing, producing, and using the underground water;

(2) determine the quality of the underground water available for production and use and the improvements, developments, and recharges needed in regard to the underground water in the district.

Sec. 31. PLANS. (a) The board shall develop comprehensive plans for

(1) efficiently using the underground water in the districts;

(2) controlling and preventing waste of the underground water.

(b) The board shall specify in the plans, to the maximum extent practicable, the acts, procedure, performance and avoidance which are or may be necessary to effect the plans, including specifications for them.

(c) The board shall carry out research projects, develop information, and determine limitations, if any, which should be made on withdrawing underground water in the district.

(d) The board shall collect and preserve information regarding the use of underground water in the district and the practicability of recharging the underground water.

(e) The board shall publish plans and information developed under this Section, bring them to the attention of the users of underground water in the district, and encourage the users to adopt and use the information.

Sec. 32. WATER SUPPLY FOR MUNICIPALITIES. (a) The district may purchase water rights and pipeline rights-of-way, drill wells, and erect suitable storage and other facilities for the purpose of selling water to municipalities within the district.

(b) The district may employ pumpers and well service personnel and may purchase vehicles and gauges pertinent to operation. No vehicle of the district may be used other than for official business.

(c) Rights of eminent domain are specifically excluded from proceedings or negotiations under this Section.

(d) Amortization of bonds and operating expenses must be guaranteed by the purchasers of the water, and any tax money spent for these purposes must be refunded to the district.

SUBCHAPTER F. RIGHTS AND DUTIES OF PERSONS IN THE DISTRICT.

Sec. 33. OWNERSHIP OF WATER. The ownership and rights of the owner of the land and his lessees and assigns in underground water are recognized, and this Act does not in any way deprive or divest the owner or his assigns or lessees of that ownership or those rights, subject, however, to the rules adopted under this Act.

Sec. 34. RESPONSIBILITY FOR COMPLYING. The owner of underground water or his lessee, if there is one, is responsible for complying with rules adopted by the board under this Act.

Sec. 35. ILLEGAL DRILLING AND PRODUCTION. Drilling a well without a permit or drilling or operating a well in violation of the terms and conditions of the permit, if a permit is required, and operating a well at a higher rate of production than the rate

approved by the board for the well, are each declared to be illegal, wasteful per se, and a nuisance.

Sec. 36. CAPPING WELLS. The owner of underground water being produced from an underground water well shall keep the well capped with a covering capable of sustaining a pressure of at least 400 pounds, except when the well is in use, and shall comply with rules adopted under Section 28 of this Act.

SUBCHAPTER G. MISCELLANEOUS PROVISIONS.

Sec. 37. EXCLUDING LAND FROM THE DISTRICT. (a) A person who owns land over which the board is exercising authority or claiming jurisdiction may petition the board for a hearing to determine whether or not the land is or should be excluded from the district. There will be no exclusion of any property after bonds are voted.

(b) At the conclusion of the hearing, the land is a part of the district if the board finds that the person has failed to establish that there is no underground water under the land or that the underground water cannot be brought to the surface at a cost that makes bringing it to the surface economically feasible.

(c) If the board makes a contrary finding under Subsection (b) of this Section, the land is excluded from the district on the day the person filed the petition with the board to determine whether or not the land should be excluded.

Sec. 38. (a) INCLUDING LAND IN THE DISTRICT. Land may be included in the district under the provisions of the general annexation law relating to underground water control and improvement districts.

(b) **APPLICATION.** The provisions of this Act do not apply to a well drilled under a permit from the Railroad Commission of Texas.

Sec. 39. **DISSOLUTION.** (a) The board may dissolve the district if it finds that the continued existence of the district will not best serve a public purpose, either because conditions in the district have changed so that regulation of underground water in the district is no longer necessary, or because it would be more efficient to have that regulation performed by some other agency.

(b) To dissolve the district, the board shall adopt a resolution proposing dissolution using the procedure for adopting rules provided for in Section 11 of this Act. After the resolution becomes effective, the board shall appoint a trustee, who shall settle the affairs of the district as quickly as possible. The trustee serves at the pleasure of the board, and is entitled to reasonable compensation set by the board.

(c) The trustee shall reduce to possession, and money, all assets and resources of the district, and shall apply the money to discharging the outstanding obligations of the district, having regard to specific funds. If it is necessary to do so, the board shall levy, assess, and collect additional taxes to pay all necessary expenses and outstanding obligations of the district.

(d) When all expenses and outstanding obligations are paid and the trustee's account is verified, the board shall discharge the trustee. When the trustee is discharged, the board shall enter of record its final order of dissolution and record the order in the deed records of the counties in which the district is located. The district is dissolved on the date specified in the order. The board

shall file a copy of the dissolution order with the Texas Water Commission and mail a copy to the Texas Legislative Council.

(e) The board shall pay to the counties in the district a proportionate part of all money in the possession of the district not needed to pay for expenses and outstanding obligations of the district when it is dissolved.

Sec. 40. LEGISLATIVE FINDINGS. The Legislature finds that the boundaries of the aquifer in the district are reasonably consistent with the county lines of Schleisher County; that all of the land and other property included within the area and boundaries of the district will be benefited by the works and projects which are to be accomplished by the district pursuant to the powers granted it by this Act; and that the district is created to serve a public use and benefit.

SUBCHAPTER H. ENFORCEMENT PROVISIONS.

Sec. 41. SUITS BY THE BOARD. The board shall sue for injunctions, mandatory injunctions, and other appropriate remedies, to compel persons to comply with rules adopted by the board and with the provisions of Section 3 of this Act.

SUBCHAPTER I. TEMPORARY PROVISIONS.

Sec. 42. INITIAL BOARD. (a) On the effective date of the creation of this district, as set out in Section 3 of this Act, the following persons are the directors of the board:

- Precinct 1, Ford Oglesby
- Precinct 2, James L. Powell
- Precinct 3, Bobby R. Sykes
- Precinct 4, Earl Lloyd
- Director-at-large, Mort Merz.

(b) The term of office of the initial board members is from the effective date of the creation of this district, as set out in Section 3 of this Act until January 10, 1967. In the event the effective date of the creation of this district is after January 10, 1967, the term of office of the initial board members is from the effective date of the creation of the district, as set out in Section 3 of this Act, until January 10, 1969.

Sec. 43. EXPIRATION DATE. If the board dissolves the district under Section 39 of this Act, this Act expires on the day the dissolution order is effective.

Sec. 44. SEVERANCE AND SAVINGS CLAUSE. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications and to this end the provisions of this Act are declared to be severable.

Sec. 45. EMERGENCY CLAUSE. The importance of this legislation and the crowded condition of the Calendars in both Houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the Rule is hereby suspended; and that this Act take effect and be in force from and after its passage, and it is so enacted.

ENROLLED

AN ACT

relating to the creation, organization, powers, and duties of an underground water conservation district located in Schleicher County; and declaring an emergency.

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- (2) "underground water" means water suitable for agriculture, gardening, domestic, or stock-raising uses, percolating below the earth's surface;
- (3) "district" means the Plateau Underground Water Conservation and Supply District;
- (4) "board" means the board of directors of the district.

SUBCHAPTER B. ADMINISTRATION.

Sec. 3. **CREATION OF DISTRICT.** The Plateau Underground Water Conservation and Supply District is created only in the event and at such time an underground water reservoir or reservoir subdivision is designated by the Texas Water Commission. Pursuant to the general laws applicable to underground water conservation districts, the district must be created with boundaries coterminous

with an underground water reservoir or subdivision thereof which theretofore has been designated as such by the Texas Water Commission. At such time, the district is created under Section 59, Article XVI, Constitution of the State of Texas.

Sec. 4. AREA OF DISTRICT. The district covers the same area that Schleicher County covers, and all other area added by the board under Section 33 of this Act, except area under which there is either no underground water or no underground water that can be brought to the surface at a cost that makes bringing it to the surface economically feasible, which the board excludes under Section 37(c) of this Act.

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(b) The directors are elected at elections provided for in Section 10 of this Act. A director serves a two-year term.

(c) If a constitutional amendment is adopted authorizing directors of conservation and reclamation districts to serve six-year terms, Subsection (b) of this Section is repealed on the day of the first election to elect directors held under this Act after the constitutional amendment becomes effective, and the directors serve six-year terms. At that election, two directors are elected for two-year terms; two for four-year terms; and one for a six-year term. The director-at-large is elected for the

six-year term. The board shall designate which precinct elects a director for a two-year term and which for a four-year term. The board shall conduct biennial elections after that election, at which directors are elected for six-year terms to replace retiring directors.

(d) If a position on the board becomes vacant, a majority of the remaining directors shall appoint another person to fill the vacated position for the unexpired term.

(e) A director serves until his successor is elected.

Sec. 7. QUALIFICATION OF DIRECTORS. A person is qualified to serve on the board who is elected or appointed to that position, and who

- (1) is at least 21 years of age;
- (2) owns real property in the district;
- (3) is a resident of the district.

Sec. 8. ADMINISTRATOR AND EMPLOYEES. (a) The board may employ an administrator and set his salary. The board may delegate any of its powers and duties (except those of adopting rules, a dissolution resolution, a dissolution order, and those relating to hearings, taxation, and bonds) to the administrator, who may carry out powers and duties delegated to him by the board. Employment of personnel is subject to the general law on nepotism.

(b) The administrator, with the approval of the board, may employ employees of the board and set their salaries, and hire legal counsel for the board. If an employee or a member of his family is a member of the board, the employee may not receive

compensation for his services as an employee.

Sec. 9. BOARD MEETINGS AND OFFICERS. (a) The board shall hold regular quarterly meetings. It may hold other meetings at the call of the chairman or at the request of at least two directors.

(b) A majority of the directors is a quorum for conducting business.

(c) The board shall elect its officers.

Sec. 10. ELECTIONS. (a) The board shall call an election to elect directors to the board on the second Tuesday in January of each odd-numbered year. The first election to elect directors under this Act is to be held on January 10, 1967. In the event the district is not created by January 9, 1967, as set out in Section 3 of this Act, the first election to elect directors under this Act is to be held immediately after creation of the district and the election held under this provision shall be conducted under the General Laws of the State relating to elections.

(b) The board shall conduct an election held under this Act under the General Laws of the State relating to elections.

(c) No board member may serve continuously for more than two terms.

(d) The board shall pay for the cost of elections with money of the district.

(e) No board member may hold any office of emolument.

SUBCHAPTER C. ADMINISTRATIVE PROCEDURE.

Sec. 11. PROCEDURE FOR ADOPTING AND AMENDING RULES.

(a) Before the board may adopt or amend a rule under this Act, it must publish a brief summary of the rule or the amendment

in one or more newspapers as it decides is necessary to give the summary general circulation throughout the district. The Board must publish the summary one time a week for two weeks.

(b) The rule or amendment takes effect on the fourteenth day after the day the summary is published the second time, unless

(1) the board specifies that it takes effect at a later time; or

(2) the board rescinds the order adopting the rule or amendment.

(c) The board may rescind the order for (but it may not change) a rule or amendment from the time the summary is first published until after the rule or amendment takes effect. After the rule or amendment takes effect, the board may change or repeal it only by adopting a rule repealing or amending it.

(d) If the board rescinds an order for a rule or amendment, it may adopt a new rule or amendment at any time, even though the new rule or amendment is on the same subject as the rule or amendment rescinded.

Sec. 12. DECLARATORY JUDGMENT ON VALIDITY OF RULES.

(a) The validity of a rule adopted under this Act may be determined upon petition for a declaratory judgment on the validity of the rule addressed to a district court sitting in the Plateau Underground Water Conservation and Supply District, when it appears that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the petitioner. The board shall be

made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the board to pass upon the validity of the rule in question.

(b) The court shall declare the rule invalid if it finds that the rule violates constitutional provisions, exceeds the statutory authority of the board, or was adopted without complying with Section 11 of this Act.

Sec. 13. DEFINITION. In Sections 13 through 20 of this Act, "contested case" means a proceeding before the board in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a board hearing.

Sec. 14. HEARING OFFICER. (a) In a contested case, the board shall employ an attorney to serve as the hearing officer in the hearing. At the hearing, the hearing officer shall

- (1) preside over the hearing;
- (2) rule on the admissibility of evidence;
- (3) prepare the record, decision, and order of the board and the notices for the hearing;
- (4) assist the board in all legal matters connected with the hearing.

(b) The hearing officer may vote only to break a tie.

(c) If a member of the board is an attorney, the board may designate that he is the hearing officer, rather than employ another attorney to be the hearing officer. In that case, Subsection (b) of this Section does not apply.

Sec. 15. NOTICE, HEARING, RECORDS. (a) All parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place, and issues involved, but if, because of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, the issues shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect to the issues.

(b) The board shall prepare an official record, including testimony and exhibits, in each contested case, and shall prepare a mechanical recording of the proceedings. It is not necessary to transcribe the recording unless the transcription is requested for purposes of rehearing or court review.

(c) Informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(d) The board shall adopt appropriate rules of procedure for notice and hearing in contested cases.

Sec. 16. RULES OF EVIDENCE. (a) In contested cases, the board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The board shall give effect to the rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(b) All evidence, including those of the board's records and documents it desires to use, shall be offered and made a part of the record in the case, and no other factual information

or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(c) Every party has the right to cross-examine witnesses who testify, and has the right to submit rebuttal evidence.

Sec. 17. **OFFICIAL NOTICE.** The board may take notice of judicially cognizable facts and in addition may take notice of general, technical, and scientific facts within its specialized knowledge. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The board may use its experience, technical competence, and specialized knowledge in evaluating the evidence presented to it.

Sec. 18. **EXAMINATION OF EVIDENCE BY BOARD.** When in a contested case a majority of the directors of the board who are to render the final decision have not heard or read the evidence, the decision, if adverse to the party to the proceeding other than the board itself, shall not be made until a proposal for decision, including findings of fact and conclusions of law, has been served upon the parties and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to a majority of the directors who are to render the decision, who shall personally consider the whole record or as much of it as may be cited by the parties.

Sec. 19. **DECISIONS AND ORDERS.** Every decision and order adverse to a party to the proceeding, rendered by the board in a

contested case, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law for each contested issue. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or to his attorney of record.

Sec. 20. JUDICIAL REVIEW OF CONTESTED CASES. (a) A party aggrieved by a final decision in a contested case, whether the decision is affirmative or negative in form, is entitled to judicial review of the decision.

(b) Review shall be instituted by filing a written statement complaining of the board's decision in a district court within the boundaries of the district within 30 days after service of the final decision of the board. The statement shall specify concisely each finding, conclusion, or action of the board with which the aggrieved party disagrees. Copies of the statement shall be served upon the board and all other parties of record. The court, in its discretion, may permit other interested persons to intervene.

(c) Filing the petition does not stay enforcement of the board's decision; but the board may do so, or the reviewing court may order a stay upon such terms as it deems proper.

(d) Within 30 days after service of the statement or within such further time as the court may allow, the board shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation

of all parties to the review proceeding, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs caused by his refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there was good reason for failing to present it in the proceeding before the Board, the court may order that the additional evidence be taken before the board upon such conditions as the court deems proper. The board may add to or modify its findings, conclusions, and decision in the light of the additional evidence and shall file with the court, as part of the record, the additional evidence, together with any additions or modifications to its findings, conclusions, or decision.

(f) The review shall be conducted by the court and shall be confined to the record, except that in cases of alleged irregularities in procedure before the board, not shown in the record, testimony on the alleged irregularities may be taken in court. The court shall, on request, hear oral argument and receive written briefs.

(g) The court may affirm the decision of the board or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of a party may have been prejudiced because the board's findings, inferences, conclusions, or decisions are

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the board;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by competent, material, and substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.

SUBCHAPTER D. FINANCIAL PROVISIONS.

Sec. 21. TAXATION. (a) The board may levy and collect property taxes levied on the property in the district that are necessary to enable the board to perform the powers and functions given it in this Act.

(b) The board may levy annual taxes not to exceed thirty-five cents (35¢) on the one hundred dollar valuation on all taxable property within the district. The board may not levy or collect property taxes at a rate greater than the number of cents per one hundred dollar valuation based on Schleicher County valuations necessary to provide net fund or no greater than Ten Thousand Dollars (\$10,000) unless a district-wide election is held to provide a raise in taxes.

Sec. 22. BONDS. (a) The board may issue bonds to finance operations and construct projects authorized under this Act.

(b) The general law on water control and improvement districts, relating to issuing bonds and retiring bond issues, elections on bond issues, and elections in assuming and discharging tax

liability for bonds, applies to issuing bonds and retiring bond issues by the board.

(c) The provisions of Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880-139, Vernon's Texas Civil Statutes), relating to approval of plans and specifications for projects to be financed by the sale of bonds, apply to the sale of bonds under this Act.

SUBCHAPTER E. POWERS AND DUTIES OF THE BOARD.

Sec. 23. **CONSERVATION RULES.** The board may adopt rules for the purpose of conserving, preserving, protecting, and recharging the underground water in the district.

Sec. 24. **WASTE.** The board may adopt rules designed to prevent waste of the underground water in the district. Nothing contained herein shall in any way amend, alter, or otherwise change the declaration of water priorities and appropriation thereof as set out in Article 7471, Revised Civil Statutes of Texas, 1925.

Sec. 25. **PERMITS.** (a) The board may adopt rules requiring a person to obtain a permit from the board before he may drill, equip, complete, or substantially alter the size of a well or the size of a pump used in connection with the well.

(b) The board may add whatever terms and conditions to the permit and modify the terms and conditions, that are necessary to insure that drilling, equipping, completing, or substantially altering the size of a well or the size of a pump used in connection with the well will

(1) preserve and conserve the underground water in the district;

(2) prevent any of the kinds of waste of the underground water specified in Section 24 of this Act;

(3) minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure;

(4) lessen interference between wells.

(c) a permit issued under this Section is conditional and the board may revoke it if the person to whom it was issued does not comply with rules adopted under Sections 23 through 28 of this Act or with the terms and conditions stated in the permit.

(d) Before the board may refuse to issue a permit, add terms or conditions to a permit, modify the terms or conditions of a permit, or revoke a permit, it must offer the applicant or holder of the permit an opportunity to be heard by the board.

Sec. 26. SPACING AND PRODUCTION. (a) The board may adopt rules to

(1) provide for spacing wells to be drilled to produce water from the underground water in the district;

(2) regulate the production of wells producing water from the underground water in the district.

(b) To be valid, a rule adopted under this Section must relate to minimizing as far as practicable the drawdown of the water table or the reduction of artesian pressure, or to the prevention of any of the kinds of waste of the underground water specified in Section 24 of this Act.

(c) Rules adopted under this Section do not apply to wells drilled to produce water to be used by an individual, a family, or a household for

- (1) drinking water and cooking;
- (2) washing;
- (3) irrigating a garden or orchard, if the produce of the garden or orchard is primarily to be eaten by the individual, family, or household;
- (4) watering animals.

(d) If the board sees fit, it may require that not more than one well producing more than 500 gallons a minute be drilled on 80 acres.

Sec. 27. RECORDS AND REPORTS. The board may adopt rules

(1) requiring that records be kept and reports be made to the board concerning

(A) drilling, equipping, and completing wells into the underground water strata in the district;

(B) taking and using underground water in the district;

(2) requiring accurate driller's logs to be kept of wells into underground water strata, and that driller's logs and any electric logs kept be filed with the board.

Sec. 28. RULES RELATING TO CAPPING WELLS. The board may adopt regulations implementing the requirements in Section 36 of this Act relating to capping uncapped wells.

Sec. 29. PROJECTS. The board, through its employees and agents, may

- (1) construct and maintain dams;
- (2) drain lakes, depressions, draws, and creeks;
- (3) install and operate pumps and other equipment necessary to recharge the underground water in the district;

(4) acquire land, by eminent domain or otherwise, to do the things specified in Subdivisions (1) through (3) of this Section.

Sec. 30. SURVEYS. The board may employ engineers to

(1) survey the underground water in the district and the facilities for developing, producing, and using the underground water;

(2) determine the quality of the underground water available for production and use and the improvements, developments, and recharges needed in regard to the underground water in the district.

Sec. 31. PLANS. (a) The board shall develop comprehensive plans for

(1) efficiently using the underground water in the districts;

(2) controlling and preventing waste of the underground water.

(b) The board shall specify in the plans, to the maximum extent practicable, the acts, procedure, performance and avoidance which are or may be necessary to effect the plans, including specifications for them.

(c) The board shall carry out research projects, develop information, and determine limitations, if any, which should be made on withdrawing underground water in the district.

(d) The board shall collect and preserve information regarding the use of underground water in the district and the practicability of recharging the underground water.

(e) The board shall publish plans and information developed under this Section, bring them to the attention of the users of underground water in the district, and encourage the users to adopt and use the information.

Sec. 32. WATER SUPPLY FOR MUNICIPALITIES. (a) The district may purchase water rights and pipeline rights-of-way, drill wells, and erect suitable storage and other facilities for the purpose of selling water to municipalities within the district.

(b) The district may employ pumpers and well service personnel and may purchase vehicles and gauges pertinent to operation. No vehicle of the district may be used other than for official business.

(c) Rights of eminent domain are specifically excluded from proceedings or negotiations under this Section.

(d) Amortization of bonds and operating expenses must be guaranteed by the purchasers of the water, and any tax money spent for these purposes must be refunded to the district.

SUBCHAPTER F. RIGHTS AND DUTIES OF PERSONS IN THE DISTRICT.

Sec. 33. OWNERSHIP OF WATER. The ownership and rights of the owner of the land and his lessees and assigns in underground water are recognized, and this Act does not in any way deprive or divest the owner or his assigns or lessees of that ownership or those rights, subject, however, to the rules adopted under this Act.

Sec. 34. RESPONSIBILITY FOR COMPLYING. The owner of underground water or his lessee, if there is one, is responsible for complying with rules adopted by the board under this Act.

Sec. 35. ILLEGAL DRILLING AND PRODUCTION. Drilling a well without a permit or drilling or operating a well in violation of the terms and conditions of the permit, if a permit is required, and operating a well at a higher rate of production than the rate

approved by the board for the well, are each declared to be illegal, wasteful per se, and a nuisance.

Sec. 36. **CAPPING WELLS.** The owner of underground water being produced from an underground water well shall keep the well capped with a covering capable of sustaining a pressure of at least 400 pounds, except when the well is in use, and shall comply with rules adopted under Section 25 of this Act.

SUBCHAPTER G. MISCELLANEOUS PROVISIONS.

Sec. 37. **EXCLUDING LAND FROM THE DISTRICT.** (a) A person who owns land over which the board is exercising authority or claiming jurisdiction may petition the board for a hearing to determine whether or not the land is or should be excluded from the district. There will be no exclusion of any property after bonds are voted.

(b) At the conclusion of the hearing, the land is a part of the district if the board finds that the person has failed to establish that there is no underground water under the land or that the underground water cannot be brought to the surface at a cost that makes bringing it to the surface economically feasible.

(c) If the board makes a contrary finding under Subsection (b) of this Section, the land is excluded from the district on the day the person filed the petition with the board to determine whether or not the land should be excluded.

Sec. 38. (a) **INCLUDING LAND IN THE DISTRICT.** Land may be included in the district under the provisions of the general annexation law relating to underground water control and improvement districts.

(b) APPLICATION. The provisions of this Act do not apply to a well drilled under a permit from the Railroad Commission of Texas.

Sec. 39. DISSOLUTION. (a) The board may dissolve the district if it finds that the continued existence of the district will not best serve a public purpose, either because conditions in the district have changed so that regulation of underground water in the district is no longer necessary, or because it would be more efficient to have that regulation performed by some other agency.

(b) To dissolve the district, the board shall adopt a resolution proposing dissolution using the procedure for adopting rules provided for in Section 11 of this Act. After the resolution becomes effective, the board shall appoint a trustee, who shall settle the affairs of the district as quickly as possible. The trustee serves at the pleasure of the board, and is entitled to reasonable compensation set by the board.

(c) The trustee shall reduce to possession, and money, all assets and resources of the district, and shall apply the money to discharging the outstanding obligations of the district, having regard to specific funds. If it is necessary to do so, the board shall levy, assess, and collect additional taxes to pay all necessary expenses and outstanding obligations of the district.

(d) When all expenses and outstanding obligations are paid and the trustee's account is verified, the board shall discharge the trustee. When the trustee is discharged, the board shall enter of record its final order of dissolution and record the order in the deed records of the counties in which the district is located. The district is dissolved on the date specified in the order. The board

shall file a copy of the dissolution order with the Texas Water Commission and mail a copy to the Texas Legislative Council.

(e) The board shall pay to the counties in the district a proportionate part of all money in the possession of the district not needed to pay for expenses and outstanding obligations of the district when it is dissolved.

Sec. 40. **LEGISLATIVE FINDINGS.** The Legislature finds that the boundaries of the aquifer in the district are reasonably consistent with the county lines of Schleicher County; that all of the land and other property included within the area and boundaries of the district will be benefited by the works and projects which are to be accomplished by the district pursuant to the powers granted it by this Act; and that the district is created to serve a public use and benefit.

SUBCHAPTER H. ENFORCEMENT PROVISIONS.

Sec. 41. **SUITS BY THE BOARD.** The board shall sue for injunctions, mandatory injunctions, and other appropriate remedies, to compel persons to comply with rules adopted by the board and with the provisions of Section 3 of this Act.

SUBCHAPTER I. TEMPORARY PROVISIONS.

Sec. 42. **INITIAL BOARD.** (a) On the effective date of the creation of this district, as set out in Section 3 of this Act, the following persons are the directors of the board:

Precinct 1, Ford Oglesby
Precinct 2, James L. Powell
Precinct 3, Bobby R. Sykes
Precinct 4, Earl Lloyd
Director-at-large, Mort Merz.

(b) The term of office of the initial board members is from the effective date of the creation of this district, as set out in Section 3 of this Act until January 10, 1967. In the event the effective date of the creation of this district is after January 10, 1967, the term of office of the initial board members is from the effective date of the creation of the district, as set out in Section 3 of this Act, until January 10, 1969.

Sec. 43. EXPIRATION DATE. If the board dissolves the district under Section 39 of this Act, this Act expires on the day the dissolution order is effective.

Sec. 44. SEVERANCE AND SAVING CLAUSE. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications and to this end the provisions of this Act are declared to be severable.

Sec. 45. EMERGENCY CLAUSE. The importance of this legislation and the crowded condition of the Calendars in both Houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the Rule is hereby suspended; and that this Act take effect and be in force from and after its passage, and it is so enacted.

Lieutenant Governor
President of the Senate

Speaker of the House

H. B. No. 1059

I hereby certify that H. B. No. 1059 was passed by the House on May 21, 1965, by a non-record vote.

Chief Clerk of the House

I hereby certify that H. B. No. 1059 was passed by the Senate on May 26, 1965, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED:

6-16-65

Date

Signad

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

2:45 P.M. O'CLOCK

JUN 20 1965

Carroll C. Martin
Secretary of State

H. B. **1059** By *Nugent*

A BILL
To Be Entitled

AN ACT relating to the creation,
organization, powers, and
duties of an underground water
conservation district located
in Schleicher County; and
declaring an emergency.

MAY 21 1965
READ SECOND

TIME *Amended* AND

ORDERED _____ ENGROSSED

*by non-record vote
Dorothy Hallman*

Chief Clerk, House of Representatives

APR 1 1965

PERMISSION GRANTED TO INTRODUCE

Dorothy Hallman

Chief Clerk, House of Representatives

MAY 21 1965 Read third time

and Passed

by following vote: *non-record*

Dorothy Hallman

Chief Clerk
HOUSE OF REPRESENTATIVES

FILED

APR 1 1965

APR 5 1965 READ 1ST TIME
AND REFERRED TO COMMITTEE ON

Conservation & Reclamation

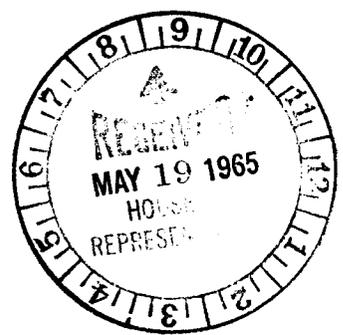
MAY 21 1965 SENT TO ENGROSSING CLERK.

MAY 19 1965

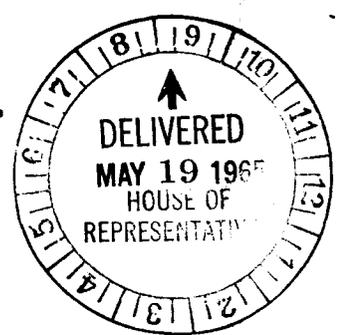
REPORTED FAVORABLY

SENT TO PRINTER

AS AMENDED



P.M.



MAY 20 1965

RETURNED FROM PRINTER. SENT TO SPEAKER

ENROLLED 5-26-65
Enrolling Clerk

By: Nugent of Kerr

H. B. No. 1059

A BILL TO BE ENTITLED

AN ACT

relating to the creation, organization, powers, and duties of an underground water conservation district located in Schleicher County; and declaring an emergency. _____

4- 1-65 Permission granted to introduce. _____

4- 1-65 Filed. _____

4- 5-65 Read first time and referred to Committee on Conservation and Reclamation. _____

5-19-65 Reported favorably as amended, sent to printer. _____

5-20-65 Returned from printer, sent to Speaker. _____

5-21-65 Read second time, amended and ordered engrossed by a non-record vote. _____

5-21-65 Read third time and passed by a non-record vote. _____

Dorothy Hallman
Chief Clerk, H. of R.

5-21-65 Sent to Engrossing Clerk. _____

5-21-65 Engrossed. _____

Area Suppitt
Engrossing Clerk, H. of R.

MAY 24 1965
IN THE SENATE

_____ Received from
the House,

MAY 24 1965 RETURNED FROM ENGROSSING SENT TO THE SENATE

MAY 24 1965 Read first time
and referred to Committee
on Counties, Cities and Towns

MAY 26 1965
Senate Rule 32 and
Constitutional Rule (Sec. 32, Art. III)
suspended by a vote of 31 yeas,
0 nays, to place bill on third
reading and final passage.

MAY 24 1965 Reported Favorably.

MAY 24 1965
Ordered not printed by the Senate.

MAY 26 1965
READ THIRD TIME AND PASSED
BY THE FOLLOWING VOTE:

MAY 26 1965
READ SECOND TIME, _____
AND PASSED TO THIRD READING.

Yeas 31 Nays 0
Charles Schnabel
Secretary of the Senate

MAY 26 1965
SENT TO HOUSE

MAY 26 1965 RETURNED FROM SENATE MAY 26 1965

Dorothy Hallman

Chief Clerk, House of Representatives