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A BILL  
TO BE ENTITLED

AN ACT relating to the creation, organization, powers, and duties of an underground water conservation district located in Atascosa and Wilson Counties; 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 Evergreen Underground Water Conservation 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"

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

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

(3) "district" means the Evergreen Underground Water Conservation District;

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

SUBCHAPTER B. ADMINISTRATION.

Sec. 3. CREATION OF DISTRICT. The Evergreen Underground Water Conservation District is created. 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 Wilson and Atascosa Counties, together, cover, and all other area added by the board under Section 37 of this Act, except

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

(2) area which comes within the limits of an incorporated city or town in Wilson or Atascosa County after the effective date of this Act, which the board excludes under Section 36(c) of this Act;

(3) 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 36(c) of this Act.

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

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

(b) Four of the directors are elected at elections provided for in Section 10 of this Act; the fifth director is appointed by the governor. 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

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1 election, one director from Atascosa County and one from Wilson County  
2 are elected for two-year terms; one from Atascosa County and one from  
3 Wilson County for four year terms; and one from Wilson County for a  
4 six year term. The board shall conduct biennial elections after that  
5 election, at which directors are elected to replace retiring directors,  
6 for six-year terms. The director who succeeds the director from  
7 Wilson County with a six-year term shall be from Atascosa County,  
8 and that position shall thereafter alternate between Wilson and Atascosa  
9 Counties.

10 (d) If a position on the board becomes vacant, a majority of the  
11 remaining directors shall appoint another person, from the county of  
12 residence of the retiring director, to fill the vacated position for the  
13 unexpired term.

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

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

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

18 (2) owns real property in the district;

19 (3) is a resident of Atascosa or Wilson County.

20 **Sec. 8. ADMINISTRATOR AND EMPLOYEES.** (a) The board may  
21 employ an administrator and set his salary. The board may delegate  
22 any of its powers and duties (except those of adopting rules, a dissolution  
23 resolution, a dissolution order, and those relating to hearings, taxation,  
24 and bonds) to the administrator, who may carry out powers and duties  
25 delegated to him by the board.

26 (b) The administrator, with the approval of the board, may employ  
27 employees of the board and set their salaries, and hire legal counsel for  
28 the board.

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

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

33 (c) The board shall elect its officers.

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

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

40 (c) The board shall prepare a ballot with the names of the candidates  
41 who reside in Atascosa County and a ballot with the names of the candi-  
42 dates who reside in Wilson County. Voters in Atascosa County vote for  
43 residents of Atascosa County; voters in Wilson County vote for residents  
44 of Wilson County.

45 (d) The two persons with the highest number of votes who are resi-  
46 dents of Atascosa County and the two persons with the highest number  
47 of votes who are residents of Wilson County are elected.

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

50 **SUBCHAPTER C. ADMINISTRATIVE PROCEDURE.**

51 **Sec. 11. PROCEDURE FOR ADOPTING AND AMENDING RULES.**

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

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

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

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

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

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

9 **Sec. 12. DECLARATORY JUDGMENT ON VALIDITY OF RULES.**

10 (a) The validity of a rule adopted under this Act may be determined upon  
11 petition for a declaratory judgment on the validity of the rule addressed  
12 to the district court sitting in the Evergreen Underground Water Conser-  
13 vation District, when it appears that the rule, or its threatened applica-  
14 tion, interferes with or impairs, or threatens to interfere with or impair,  
15 the legal rights or privileges of the petitioner. The board shall be made  
16 a party to the proceeding. The declaratory judgment may be rendered  
17 whether or not the petitioner has first requested the board to pass upon  
18 the validity of the rule in question.

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

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

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

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

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

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

40 **Sec. 15. NOTICE, HEARING, RECORDS.** (a) In a contested case  
41 all parties shall be afforded an opportunity for hearing after reasonable  
42 notice. The notice shall state the time, place, and issues involved, but  
43 if, because of the nature of the proceeding, the issues cannot be fully  
44 stated in advance of the hearing, or if subsequent amendment of the  
45 issues is necessary, the issues shall be fully stated as soon as practi-  
46 cable, and opportunity shall be afforded all parties to present evidence  
47 and argument with respect to the issues.

48 (b) The board shall prepare an official record, which includes  
49 testimony and exhibits, in each contested case, and shall prepare a  
50 mechanical recording of the proceedings. It is not necessary to trans-  
51 cribe the recording unless the transcription is requested for purposes of  
52 rehearing or court review.

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

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

57 **Sec. 16. RULES OF EVIDENCE.** (a) In contested cases, the board  
58 may admit and give probative effect to evidence which possesses

1 probative value commonly accepted by reasonably prudent men in the  
2 conduct of their affairs. The board shall give effect to the rules of  
3 privilege recognized by law. It may exclude incompetent, irrelevant,  
4 immaterial, and unduly repetitious evidence.

5 (b) All evidence, including records and documents in the possession  
6 of the board of which it desires to avail itself, shall be offered and made  
7 a part of the record in the case, and no other factual information or  
8 evidence shall be considered in the determination of the case. Documen-  
9 tary evidence may be received in the form of copies or excerpts, or by  
10 incorporation by reference.

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

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

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

31 Sec. 19. DECISIONS AND ORDERS. Every decision and order  
32 adverse to a party to the proceeding, rendered by the board in a con-  
33 tested case, shall be in writing or stated in the record and shall be  
34 accompanied by findings of fact and conclusions of law. The findings of  
35 fact shall consist of a concise statement of the conclusions upon each  
36 contested issue of fact. Parties to the proceeding shall be notified of the  
37 decision and order in person or by mail. A copy of the decision and  
38 order and accompanying findings and conclusions shall be delivered or  
39 mailed upon request to each party or to his attorney of record.

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

44 (b) Proceedings for review shall be instituted by filing a petition in  
45 the court of civil appeals within 30 days after the service of the final  
46 decision of the board. Copies of the petition shall be served upon the  
47 board and all other parties of record. The court, in its discretion, may  
48 permit other interested persons to intervene.

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

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

1 (e) If, before the date set for hearing, application is made to the  
2 court for leave to present additional evidence on the issues in the  
3 case, and it is shown to the satisfaction of the court that the additional  
4 evidence is material and that there were good reasons for failing to  
5 present it in the proceeding before the board, the court may order that  
6 the additional evidence be taken before the board upon such conditions,  
7 as the court deems proper. The board may modify its findings and  
8 decision by reason of the additional evidence and shall file with the  
9 reviewing court, to become a part of the record, the additional evidence,  
10 together with any modifications or new findings 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 the petitioners may have been prejudiced  
19 because the administrative findings, inferences, conclusions, or  
20 decisions are

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

#### 29 SUBCHAPTER D. FINANCIAL PROVISIONS.

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

33 (b) The board may not levy or collect property taxes at a rate  
34 greater than 35 cents on the \$100 valuation.

35 (c) The general law on water control and improvement districts,  
36 relating to the levy and collection of taxes, applies to the levy and  
37 collection of taxes by the board.

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

40 (b) The general law on water control and improvement districts,  
41 relating to issuing bonds and retiring bond issues, applies to issuing  
42 bonds and retiring bond issues by the board.

#### 43 SUBCHAPTER E. POWERS AND DUTIES OF THE BOARD.

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

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

49 (b) A person wastes underground water who

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

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

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

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

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

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

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

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

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

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

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

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

19 (4) lessen interference between wells.

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

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

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

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

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

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

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

40 (1) drinking water and cooking;

41 (2) washing;

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

44 (4) watering animals used in operating a farm or as food for  
45 the individual, family, or household.

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

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

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

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

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

55 Sec. 28. RULES RELATING TO CAPPING WELLS. The board  
56 may adopt regulations implementing the requirements in Section 35 of  
57 this Act relating to capping uncapped wells.

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

60 (1) construct and maintain dams;

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

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

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

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

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

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

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

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

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

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

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

32 Sec. 32. OWNERSHIP OF WATER. The ownership and rights of  
33 the owner of the land and his lessees and assigns in underground water  
34 are recognized, and this Act does not in any way deprive or divest the  
35 owner or his assigns or lessees of that ownership or those rights,  
36 subject, however, to the rules adopted under this Act.

37 Sec. 33. RESPONSIBILITY FOR COMPLYING. The owner of  
38 underground water brought to the surface, or his lessee, if there is  
39 one, and the operator of a well into the underground stratum from which  
40 the water is brought or is to be brought are jointly and severably  
41 responsible for complying with rules adopted by the board under this  
42 Act.

43 Sec. 34. ILLEGAL DRILLING AND PRODUCTION. Drilling a  
44 well without a permit or drilling or operating a well in violation of the  
45 terms and conditions of the permit, if a permit is required, and operat-  
46 ing a well at a higher rate of production than the rate approved by the  
47 board for the well, are each declared to be illegal, wasteful per se,  
48 and a nuisance.

49 Sec. 35. CAPPING WELLS. The owner of underground water  
50 being produced from an underground water well shall keep the well  
51 capped with a covering capable of sustaining a pressure of at least  
52 400 pounds, except when the well is in use, and shall comply with rules  
53 adopted under Section 28 of this Act. The operator of the well has  
54 the same duty the owner of the underground water had under this section.

55 SUBCHAPTER G. MISCELLANEOUS PROVISIONS.

56 Sec. 36. EXCLUDING LAND FROM THE DISTRICT. (a) A person  
57 who owns land over which the board is exercising authority or claiming  
58 jurisdiction may petition the board for a hearing to determine whether  
59 or not the land is or should be excluded from the district under  
60 Section 4 of this Act.

1 (b) At the conclusion of the hearing, the land is a part of the district  
2 if the board finds that the person has failed to establish  
3 (1) with respect to land claimed to be excluded under Section 4(1)  
4 of this Act, that the land was within the limits of an incorporated city or  
5 town on the effective date of this Act; or  
6 (2) with respect to land claimed to be excluded under Section 4(2)  
7 of this Act, that the land has been included within the limits of an  
8 incorporated city or town since the effective date of this Act, and that  
9 exclusion of the land would defeat none of the regulatory purposes of this  
10 Act; or

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

15 (c) If the board makes a contrary finding under Subsection (b)(1) of  
16 this Section, the land has never been a part of the district. If the board  
17 makes a contrary finding under Subsection (b)(2) or Subsection (b)(3) of  
18 this section, the land is excluded from the district on the day the  
19 person filed the petition with the board to determine whether or not the  
20 land should be excluded.

21 Sec. 37. INCLUDING LAND IN THE DISTRICT. (a) The board  
22 may order a hearing to determine whether or not land contiguous with the  
23 district but not within the district should be included in the district.

24 (b) At the hearing, if the board finds that the owner of the land that  
25 is the subject of the order has failed to establish that the exclusion of the  
26 land defeats none of the regulatory purposes of this Act, it shall order  
27 that the land is included in the district. The land is included on the day  
28 the order is issued.

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

31 Sec. 38. DISSOLUTION. (a) The board may dissolve the district, if  
32 it finds that the continued existence of the district will not best serve a  
33 public purpose, either because conditions in the district have changed so  
34 that regulation of underground water in the district is no longer neces-  
35 sary, or because it would be more efficient to have that regulation  
36 performed by some other agency.

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

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

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

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

1 Sec. 39. APPLICATION. The provisions of this Act do not apply  
2 to a well drilled under a permit from the Railroad Commission of Texas.

3 SUBCHAPTER H. ENFORCEMENT PROVISIONS.

4 Sec. 40. SUITS BY PRIVATE PERSONS. (a) A person who has an  
5 estate in land any part of which is within one-half mile of a well which  
6 is being drilled or operated in a manner declared to be illegal in  
7 Section 34 of this Act may sue or restrain or enjoin the illegal drilling  
8 or operation or both. He may also sue to recover damages he has  
9 suffered because of the illegal operation and for any further relief he is  
10 entitled to at law or equity.

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

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

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

20 (e) A suit brought under this section shall be advanced for trial and  
21 be determined as expeditiously as possible, and no postponement or  
22 continuance of the suit (including a first motion for postponement or  
23 continuance) may be granted except for reasons deemed imperative by  
24 the court.

25 Sec. 41. SUITS BY THE BOARD. The board shall sue for injunc-  
26 tions, mandatory injunctions, and other appropriate remedies, to  
27 compel persons to comply with rules adopted by the board and with the  
28 provisions of Section 35 of this Act.

29 SUBCHAPTER I. TEMPORARY PROVISIONS.

30 Sec. 42. INITIAL BOARD. (a) On the effective date of this Act,  
31 the following persons are the directors of the board: Mr. Charles H.  
32 Troell of Atascosa County; Mr. Stanley Brauchle, Sr. of Atascosa  
33 County; Mr. W. Curtis Ray of Wilson County; Mr. A. D. Richardson  
34 of Wilson County; and Mr. Merrill L. Connally of Wilson County.

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

37 Sec. 43. EXPIRATION DATE. If the board dissolves the district  
38 under Section 38 of this Act, this Act expires on the day the dissolution  
39 order is effective.

40 Sec. 44. EMERGENCY CLAUSE. The importance of this legisla-  
41 tion and the crowded condition of the calendar in both houses create an  
42 emergency and an imperative public necessity that the Constitutional  
43 Rule requiring bills to be read on three several days in each house be  
44 suspended, and the Rule is hereby suspended.

FORM C

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

**COMMITTEE REPORT**

Date 3-22-65

HON. BEN BARNES

Speaker of the House of Representatives.

Sir:

We, your Committee on CONSERVATION AND RECLAMATION, to whom was referred H.B. No. 116, 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.



V- 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.)

(1)

HB 116

BY Council

AMENDMENT NO. \_\_\_\_\_

Amend Committee Amendment No. 1 to House Bill No. 116

as printed, as follows:

- (1) on page 1, line 62, after the word "from" strike "Wilson" and substitute "Atascosa";
- (2) on page 2, line 3, strike "Wilson" and substitute "Atascosa";
- (3) on page 2, line 4, strike "Atascosa" and substitute "Wilson".

APR 6 1965

DATE \_\_\_\_\_

READ AND ADOPTED

Deborah Hallman

CHIEF CLERK

HOUSE OF REPRESENTATIVES

m.j.  
m.m.

(2)

Raepe Wayne

1 SUBSTITUTE COMMITTEE AMENDMENT NO \_\_\_\_\_

ON COMMITTEE AMENDMENT

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①

Amend House Bill No. 116 by striking all below the enacting clause and substituting the following:

SUBCHAPTER A. GENERAL PROVISIONS.

Section 1. SHORT TITLE. This Act may be cited as the Evergreen Underground Water Conservation 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"

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

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

(3) "District" means the Evergreen Underground Water Conservation District;

(4) "Board" means the Board of Directors of the District.

SUBCHAPTER B. ADMINISTRATION.

Sec. 3. CREATION OF DISTRICT. The Evergreen Underground Water Conservation District is created. The District is created under Section 59, Article XVI, Constitution of the State of Texas.

Sec. 4. AREA OF DISTRICT. The District shall comprise all of the territory contained within Wilson and Atascosa Counties and for all practical purposes the boundaries of said counties are coterminous with the boundaries of a sub division of an underground water reservoir ~~here to fore~~ <sup>heretofore</sup> designated by the Board of Water Engineers, except

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

(2) area which comes within the limits of an <sup>incorporated</sup> city or town in Wilson or Atascosa County after the effective date of this Act, which the Board excludes under Section 36(c) of this Act;

(3) 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 36(c) of this Act.

Sec. 5. ESTABLISHMENT OF BOARD. The Board of Directors of the Evergreen Underground Water Conservation District is established.

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

(b) Four of the directors are elected at elections provided for in Section 10 of this Act; the fifth director is appointed by the Governor. A director serves a two-year term.

(c) If a <sup>di-</sup>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, one director from Atascosa County and one from Wilson County are elected for two-year terms; one <sup>Atascosa</sup> from Atascosa County and one from Wilson County for four-year terms; and one from ~~Wilson~~ Wilson County for a six-year term. The Board shall conduct biennial elections after that election, at which directors are elected to replace retiring directors, for six-year terms. The director who succeeds the director from

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DATE APR 6 1965

READ AND ADOPTED, as Amended  
*Dorothy Hallman*  
CHIEF CLERK  
HOUSE OF REPRESENTATIVES

m.m.

Atascosa

Wilson

1 ~~Wilson~~ County with a six-year term shall be from ~~Atascosa~~ County,  
2 and that position shall thereafter alternate between Wilson and Atascosa  
3 Counties.

4 (d) If a position on the Board becomes vacant, a majority of the  
5 remaining directors shall appoint another person from the county of  
6 residence of the retiring director to fill the vacated position for the  
7 unexpired term.

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

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 Atascosa or Wilson County.

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.

20 (b) The administrator, with the approval of the Board, may employ  
21 employees of the Board and set their salaries, and hire legal counsel for  
22 the Board.

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

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

27 (c) The Board shall elect its officers.

28 (d) The General Law relating to filing bonds by directors of districts  
29 applies to directors of the District.

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

34 (b) The Board shall conduct an election held under this Act under  
35 the General Laws of the state relating to elections.

36 (c) The Board shall prepare a ballot with the names of the candidates  
37 who reside in Atascosa County and a ballot with the names of the candi-  
38 dates who reside in Wilson County. Voters in Atascosa County vote for  
39 residents of Atascosa County; voters in Wilson County vote for residents  
40 of Wilson County.

41 (d) The two persons with the highest number of votes who are resi-  
42 dents of Atascosa County and the two persons with the highest number  
43 of votes who are residents of Wilson County are elected.

44 (e) The Board shall pay for the cost of the elections with money of  
45 the District.

46 SUBCHAPTER C. ADMINISTRATIVE PROCEDURE.

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

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

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

- 55 (1) the Board specifies that it takes effect at a later time; or  
56 (2) the Board rescinds the order adopting the rule or amendment.

57 (c) The Board may rescind the order for (but it may not change) a  
58 rule or amendment, from the time the summary is first published until  
59 after the rule or amendment takes effect. After the rule or amendment  
60 takes effect, the Board may change or repeal it only by adopting a rule  
61 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 upon  
6 petition for a declaratory judgment on the validity of the rule addressed  
7 to the district court sitting in the Evergreen Underground Water Conser-  
8 vation District, when it appears that the rule, or its threatened applica-  
9 tion, interferes with or impairs, or threatens to interfere with or impair,  
10 the legal rights or privileges of the petitioner. The Board shall be made  
11 a party to the proceeding. The declaratory judgment may be rendered  
12 whether or not the petitioner has first requested the board to pass upon  
13 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 the appointed member of the Board is an attorney, the Board  
32 may designate that he is the hearing officer, rather than employ another  
33 attorney to be the hearing officer. In that case, Subsection (b) of this  
34 Section does not apply.

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

43 (b) The Board shall prepare an official record, which includes  
44 testimony and exhibits, in each contested case, and shall prepare a  
45 mechanical recording of the proceedings. It is not necessary to trans-  
46 scribe the recording unless the transcription is requested for purposes of  
47 rehearing 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.

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1 (b) All evidence, including records and documents in the possession  
2 of the Board of which it desires to avail itself, shall be offered and made  
3 a part of the record in the case, and no other factual information or  
4 evidence shall be considered in the determination of the case. Documen-  
5 tary evidence may be received in the form of copies or excerpts, or by  
6 incorporation by 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  
10 judicially cognizable facts and in addition may take notice of general,  
11 technical, 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  
19 render the final decision have not heard or read the evidence, the  
20 decision, if adverse to the party to the proceeding other than the Board  
21 itself, shall not be made until a proposal for decision, including  
22 findings of fact and conclusions of law, has been served upon the parties  
23 and an opportunity has been afforded to each party adversely affected  
24 to file exceptions and present argument to a majority of the directors  
25 who are to render the decision, who shall personally consider the whole  
26 record or as much of it as may be cited by the parties.

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

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

40 (b) Proceedings for review shall be instituted by filing a petition in  
41 a district court within the district within 30 days after the service of the  
42 final decision of the Board. Copies of the petition shall be served upon  
43 the Board and all other parties of record. The court, in its discretion,  
44 may permit other interested persons to intervene.

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

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

57 (e) If, before the date set for hearing, application is made to the  
58 court for leave to present additional evidence on the issues in the case,  
59 and it is shown to the ~~satisfaction~~ of the court that the additional

1 evidence is material and that there were good reasons for failing to  
2 present it in the proceeding before the Board, the court may order that  
3 the additional evidence be taken before the Board upon such conditions  
4 as the court deems proper. The Board may modify its findings and  
5 decision by reason of the additional evidence and shall file with the  
6 reviewing court, to become a part of the record, the additional evidence,  
7 together with any modifications or new findings or decision.

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

13 (g) The court may affirm the decision of the Board or remand the  
14 case for further proceedings; or it may reverse or modify the decision  
15 if the substantial rights of the petitioners may have been prejudiced  
16 because the administrative findings, inferences, conclusions, or  
17 decisions are

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

#### 26 SUBCHAPTER D. FINANCIAL PROVISIONS.

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

30 (b) The Board may not levy or collect property taxes at a rate  
31 greater than 35 cents on the \$100 valuation.

32 (c) The General Law on water control and improvement districts,  
33 relating to the levy and collection of taxes and to elections held on tax  
34 levies, applies to the levy and collection of taxes by the Board.

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

37 (b) The General Law on water control and improvement districts,  
38 relating to issuing bonds and retiring bond issues, elections on bond  
39 issues, elections on assuming tax liabilities for bonds, and procedures  
40 for determining the liability of property proposed to be excluded from  
41 a district, applies to issuing bonds and retiring bond issues by the Board.

#### 42 SUBCHAPTER E. POWERS AND DUTIES OF THE BOARD.

43 Sec. 23. CONSERVATION RULES. The Board may adopt rules  
44 for the purpose of conserving, preserving, protecting, and recharging  
45 the underground water in the District.

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

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  
8 a 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  
22 an 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 to be eaten by the individual, family, or household;

39           (4) watering animals used in operating a farm or as food for  
40 the individual, family, or household.

41       Sec. 27. RECORDS AND REPORTS. The Board may adopt rules

42           (1) requiring that records be kept and reports be made to the  
43 Board concerning

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

46           (B) taking and using underground water in the District;

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

50       Sec. 28. RULES RELATING TO CAPPING WELLS. The Board  
51 may adopt regulations implementing the requirements in Section 35 of  
52 this Act relating to capping uncapped wells.

53       Sec. 29. PROJECTS. The Board, through its employees and agents,  
54 may

55           (1) construct and maintain dams;

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

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

1 (4) acquire land within the District, by eminent domain or other-  
2 wise, to do the things specified in Subdivisions (1) through (3) of this  
3 Section.

4 Sec. 30. SURVEYS. The Board may employ engineers to  
5 (1) survey the underground water in the District and the facili-  
6 ties for developing, producing, and using the underground water;

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

10 Sec. 31. PLANS. (a) The Board shall develop comprehensive plans  
11 for

12 (1) efficiently using the underground water in the <sup>District</sup> districts;  
13 (2) controlling and preventing waste of the underground water.

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

18 (c) The Board shall carry out research projects, develop informa-  
19 tion, and determine limitations, if any, which should be made on  
20 withdrawing underground water in the District.

21 (d) The Board shall collect and preserve information regarding the  
22 use of underground water in the District and the practicability of  
23 recharging the underground water.

24 (e) The Board shall publish plans and information developed under  
25 this Section, bring them to the attention of the users of underground  
26 water in the District, and encourage the users to adopt and use the in-  
27 formation. The Board shall make plans and information developed  
28 under this Section available to the Texas Water Commission.

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

31 Sec. 32. OWNERSHIP OF WATER. The ownership and rights of  
32 the owner of the land and his lessees and assigns in underground water  
33 are recognized, and this Act does not in any way deprive or divest the  
34 owner or his assigns or lessees of that ownership or those rights,  
35 subject, however, to the rules adopted under this Act.

36 Sec. 33. RESPONSIBILITY FOR COMPLYING. The owner of  
37 underground water brought to the surface, or his lessee, if there is  
38 one, and the operator of a well into the underground stratum from which  
39 the water is brought or is to be brought are jointly and severally  
40 responsible for complying with rules adopted by the Board under this  
41 Act.

42 Sec. 34. ILLEGAL DRILLING AND PRODUCTION. Drilling a  
43 well without a permit or drilling or operating a well in violation of the  
44 terms and conditions of the permit, if a permit is required, and operat-  
45 ing a well at a higher rate of production than the rate approved by the  
46 board for the well, are each declared to be illegal, wasteful per se,  
47 and a nuisance.

48 Sec. 35. CAPPING WELLS. The owner of underground water  
49 being produced from an underground artesian water well shall keep the  
50 flowing well capped with a covering capable of sustaining a pressure of  
51 at least 400 pounds, except when the well is in use, and shall comply  
52 with rules adopted under Section 28 of this Act. The operator of the  
53 well has the same duty the owner of the underground water had under  
54 this section.

55 SUBCHAPTER G. MISCELLANEOUS PROVISIONS.

56 Sec. 36. EXCLUDING LAND FROM THE DISTRICT. (a) A person  
57 who owns land over which the Board is exercising authority or claiming  
58 jurisdiction may petition the Board for a hearing to determine whether or  
59 not the land is or should be excluded from the district under Section 4 of  
60 this Act.

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1 (b) At the conclusion of the hearing, the land is a part of the District  
2 if the Board finds that the person has failed to establish  
3 (1) with respect to land claimed to be excluded under Section 4(1)  
4 of this Act, that the land was within the limits of an incorporated city or  
5 town on the effective date of this Act; or  
6 (2) with respect to land claimed to be excluded under Section 4(2)  
7 of this Act, that the land has been included within the limits of an  
8 incorporated city or town since the effective date of this Act, and that  
9 exclusion of the land would defeat none of the regulatory purposes of this  
10 Act; or  
11 (3) with respect to land claimed to be excluded under Section 4(3)  
12 of this Act, that there is no underground water under the land or that the  
13 underground water cannot be brought to the surface at a cost that makes  
14 bringing it to the surface economically feasible.  
15 (c) If the board makes a contrary finding under Subsection (b)(1) of  
16 this Section, the land has never been a part of the District. If the Board  
17 makes a contrary finding under Subsection (b)(2) or Subsection (b)(3) of  
18 this Section, the land is excluded from the District on the day the  
19 person filed the petition with the Board to determine whether or not the  
20 land should be excluded.

21 Sec. 37. INCLUDING LAND IN THE DISTRICT. Land may be  
22 included in the District under the provisions of the General Law re- the  
23 lating to water control and improvement districts.

24 Sec. 38. DISSOLUTION. (a) The Board may dissolve the District, if  
25 it finds that the continued existence of the District will not best serve a  
26 public purpose, either because conditions in the District have changed so  
27 that regulation of underground water in the District is no longer neces-  
28 sary, or because it would be more efficient to have that regulation  
29 performed by some other agency.

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

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

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

50 (e) The Board shall pay to the counties in the District a propor-  
51 tionate part of all money in the possession of the District not needed  
52 to pay for expenses and outstanding obligations of the District when it is  
53 dissolved.



By: Connally

H. B. No. 116

A BILL TO BE ENTITLED

AN ACT

relating to the creation, organization, powers, and duties of an underground water conservation district located in Atascosa and Wilson counties; 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 Evergreen Underground Water Conservation 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"

(A) means water suitable for agricultural, gardening, domestic, or stockraising uses percolating below the earth's surface;

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

(3) "District" means the Evergreen Underground Water Conservation District;

(4) "Board" means the Board of Directors of the District.

SUBCHAPTER B. ADMINISTRATION.

Sec. 3. CREATION OF DISTRICT. The Evergreen Underground Water Conservation District is created. The District is created under Section 59, Article XVI, Constitution of the State of Texas.

**Sec. 4. AREA OF DISTRICT.** The District shall comprise all of the territory contained within Wilson and Atascosa counties and for all practical purposes the boundaries of said counties are coterminous with the boundaries of a subdivision of an underground water reservoir heretofore designated by the Board of Water Engineers, except

(1) area which is within the limits of an incorporated city or town in Wilson or Atascosa county on the effective date of this Act;

(2) area which comes within the limits of an incorporated city or town in Wilson or Atascosa county after the effective date of this Act, which the Board excludes under Section 36(c) of this Act;

(3) 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 36(c) of this Act.

**Sec. 5. ESTABLISHMENT OF BOARD.** The Board of Directors of the Evergreen Underground Water Conservation District is established.

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

(b) Four of the directors are elected at elections provided for in Section 10 of this Act; the fifth director is appointed by the Governor. 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, one director from Atascosa County and one from Wilson County are elected for two-year terms; one from Atascosa County and one from Wilson County for four-year terms; and one from Atascosa County for a six-year term. The Board shall conduct biennial elections after that election, at which directors are elected to replace retiring directors, for six-year terms. The director who succeeds the director from Atascosa County with a six-year term shall be from Wilson County, and that position shall thereafter alternate between Wilson and Atascosa counties.

(d) If a position on the Board becomes vacant, a majority of the remaining directors shall appoint another person from the county of residence of the retiring director to fill the vacated position for the unexpired term.

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

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 Atascosa or Wilson county.

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.

(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.

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.

(d) The General Law relating to filing bonds by directors of districts applies to directors of the District.

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.

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

(c) The Board shall prepare a ballot with the names of the candidates who reside in Atascosa County and a ballot with the names of the candidates who reside in Wilson County. Voters in Atascosa County vote for residents of Atascosa County; voters in Wilson County vote for residents of Wilson County.

(d) The two persons with the highest number of votes who are residents of Atascosa County and the two persons with the highest number of votes who are residents of Wilson County are elected.

(e) The Board shall pay for the cost of the elections with money of the District.

**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 the district court sitting in the Evergreen Underground Water Conservation 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) at the direction of the Board, 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 the appointed 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) In a contested case 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, which includes 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 records and documents in the possession of the Board of which it desires to avail itself, 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. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. 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 person 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) Proceedings for review shall be instituted by filing a petition in a district court within the District within 30 days after the service of the final decision of the Board. Copies of the petition 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 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 petition, 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 were

good reasons 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 modify its findings and decision by reason of the additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modifications or new findings 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 the petitioners may have been prejudiced because the administrative 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 not levy or collect property taxes at a rate greater than 35 cents on the One Hundred Dollar valuation.

(c) The General Law on water control and improvement districts, relating to the levy and collection of taxes and to elections held on tax levies, applies to the levy and collection of taxes by the Board.

**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, elections on assuming tax liabilities for bonds, and procedures for determining the liability of property proposed to be excluded from a district, applies to issuing bonds and retiring bond issues by the Board.

**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 to be eaten by the individual, family, or household;

(4) watering animals used in operating a farm or as food for the individual, family, or household.

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 35 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 within the District, 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 District;
- (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. The Board shall make plans and information developed under this Section available to the Texas Water Commission.

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

Sec. 32. **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. 33. **RESPONSIBILITY FOR COMPLYING.** The owner of underground water brought to the surface, or his lessee, if there is one, and the operator of a well into the underground stratum from

which the water is brought or is to be brought are jointly and severally responsible for complying with rules adopted by the Board under this Act.

**Sec. 34. 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. 35. CAPPING WELLS.** The owner of underground water being produced from an underground artesian water well shall keep the flowing 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. The operator of the well has the same duty the owner of the underground water had under this section.

**SUBCHAPTER G, MISCELLANEOUS PROVISIONS.**

**Sec. 36. 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 under Section 4 of this Act.

(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

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

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

(3) with respect to land claimed to be excluded under Section 4(3) of this Act, 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)(1) of this Section, the land has never been a part of the District. If the Board makes a contrary finding under Subsection (b)(2) or Subsection (b)(3) 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. 37. INCLUDING LAND IN THE DISTRICT.** Land may be included in the District under the provisions of the General Law relating to water control and improvement districts.

**Sec. 38. 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 trustees 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. 39. APPLICATION.** The provisions of this Act do not apply to a well drilled under a permit from the Railroad Commission of Texas.

**SUBCHAPTER H. ENFORCEMENT PROVISIONS.**

**Sec. 40. SUITS BY PRIVATE PERSONS.** (a) A person who has an estate in land any part of which is within one-half mile of a well which is being drilled or operated in a manner declared to be illegal in Section 34 of this Act may sue or restrain or enjoin the illegal drilling or operation or both. He may also sue to recover damages he has suffered because of the illegal operation and for any further relief he is entitled to at law or equity.

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

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

(d) The cause of action and the rights created by this Section are cumulative, and do not impair the rights of any other person or the enforcement powers of the Board.

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

**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 35 of this Act.

**SUBCHAPTER I. TEMPORARY PROVISIONS.**

Sec. 42. **INITIAL BOARD.** (a) On the effective date of this Act, the following persons are the directors of the Board: Mr. Charles H. Troell of Atascosa County; Mr. Stanley Brauchle, Sr. of Atascosa County; Mr. W. Curtis Ray of Wilson County; Mr. A. D. Richardson of Wilson County; and Mr. Merrill L. Connally of Wilson County.

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

Sec. 43. **EXPIRATION DATE.** If the Board dissolves the District under Section 38 of this Act, this Act expires on the day the dissolution order is effective.

Sec. 44. **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.

Austin, Texas

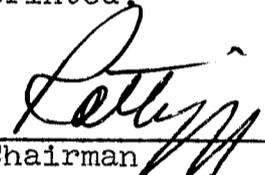
4-13, 1965

Honorable Preston Smith

President of the Senate

Sir:

We, your Committee on Counties, Cities, and Towns  
to which was referred H.B. No. 116, have had the same under  
consideration, and we are instructed to report it back to the  
Senate with the recommendation that it do    pass     
  , and be printed.

  
Chairman





AN ACT

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

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

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(2) "underground water"

(A) means water suitable for agricultural, gardening, domestic, or stockraising uses percolating below the earth's surface;

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

(3) "District" means the Evergreen Underground Water Conservation District;

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(1) area which is within the limits of an incorporated city or town in Wilson or Atascosa county on the effective date of this Act;

(2) area which comes within the limits of an incorporated city or town in Wilson or Atascosa county after the effective date of this Act, which the Board excludes under Section 36(e) of this Act;

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(b) Four of the directors are elected at elections provided for in Section 10 of this Act; the fifth director is appointed by the Governor. 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, one director from Atascosa County and one from Wilson County are elected for two-year terms; one from Atascosa County and one from Wilson County for four-year terms; and one from Atascosa County for a six-year term. The Board shall conduct biennial elections after that election, at which directors are elected to replace retiring directors, for six-year terms. The director who succeeds the director from Atascosa County with a six-year term shall be from Wilson County, and that position shall thereafter alternate between Wilson and Atascosa counties.

(d) If a position on the Board becomes vacant, a majority of the remaining directors shall appoint another person from the county of residence of the retiring director to fill the vacated position for the unexpired term.

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

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

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- (2) owns real property in the District;
- (3) is a resident of Atascosa or Wilson county.

**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.

(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.

**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.

(d) The General Law relating to filing bonds by directors of districts applies to directors of the District.

**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.

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

(c) The Board shall prepare a ballot with the names of the candidates who reside in Atascosa County and a ballot with the names of the candidates who reside in Wilson County. Voters in Atascosa County vote for residents of Atascosa County; voters in Wilson County vote for residents of Wilson County.

(d) The two persons with the highest number of votes who are residents of Atascosa County and the two persons with the highest number of votes who are residents of Wilson County are elected.

(e) The Board shall pay for the cost of the elections with money of the District.

#### 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 the district court sitting in the Evergreen Underground Water Conservation 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) at the direction of the Board, 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 the appointed 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) In a contested case 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, which includes 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 records and documents in the possession of the Board of which it desires to avail itself, 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. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. 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 person 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) Proceedings for review shall be instituted by filing a petition in a district court within the District within 30 days after the service of the final decision of the Board. Copies of the petition 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 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 petition, 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 were

good reasons 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 modify its findings and decision by reason of the additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modifications or new findings 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 the petitioners may have been prejudiced because the administrative 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 not levy or collect property taxes at a rate greater than 35 cents on the One Hundred Dollar valuation.

(c) The General Law on water control and improvement districts, relating to the levy and collection of taxes and to elections held on tax levies, applies to the levy and collection of taxes by the Board.

**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, elections on assuming tax liabilities for bonds, and procedures for determining the liability of property proposed to be excluded from a district, applies to issuing bonds and retiring bond issues by the Board.

**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 to be eaten by the individual, family, or household;

(4) watering animals used in operating a farm or as feed for the individual, family, or household.

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 35 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 within the District, 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 District;
- (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. The Board shall make plans and information developed under this Section available to the Texas Water Commission.

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

**Sec. 32. 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. 33. RESPONSIBILITY FOR COMPLYING.** The owner of underground water brought to the surface, or his lessee, if there is one, and the operator of a well into the underground stratum from

which the water is brought or is to be brought are jointly and severally responsible for complying with rules adopted by the Board under this Act.

Sec. 34. **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. 35. **CAPPING WELLS.** The owner of underground water being produced from an underground artesian water well shall keep the flowing 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. The operator of the well has the same duty the owner of the underground water had under this section.

**SUBCHAPTER G. MISCELLANEOUS PROVISIONS.**

Sec. 36. **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 under Section 4 of this Act.

(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

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

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

(3) with respect to land claimed to be excluded under Section 4(3) of this Act, 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)(1) of this Section, the land has never been a part of the District. If the Board makes a contrary finding under Subsection (b)(2) or Subsection (b)(3) 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. 37. **INCLUDING LAND IN THE DISTRICT.** Land may be included in the District under the provisions of the General Law relating to water control and improvement districts.

Sec. 38. **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 trustees 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. 39. APPLICATION. The provisions of this Act do not apply to a well drilled under a permit from the Railroad Commission of Texas.

**SUBCHAPTER H. ENFORCEMENT PROVISIONS.**

Sec. 40. SUITS BY PRIVATE PERSONS. (a) A person who has an estate in land any part of which is within one-half mile of a well which is being drilled or operated in a manner declared to be illegal in Section 34 of this Act may sue or restrain or enjoin the illegal drilling or operation or both. He may also sue to recover damages he has suffered because of the illegal operation and for any further relief he is entitled to at law or equity.

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

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

(d) The cause of action and the rights created by this Section are cumulative, and do not impair the rights of any other person or the enforcement powers of the Board.

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

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 35 of this Act.

**SUBCHAPTER I. TEMPORARY PROVISIONS.**

**Sec. 42. INITIAL BOARD.** (a) On the effective date of this Act, the following persons are the directors of the Board: Mr. Charles H. Troell of Atascosa County; Mr. Stanley Brauchle, Sr. of Atascosa County; Mr. W. Curtis Ray of Wilson County; Mr. A. D. Richardson of Wilson County; and Mr. Merrill L. Connally of Wilson County.

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

**Sec. 43. EXPIRATION DATE.** If the Board dissolves the District under Section 38 of this Act, this Act expires on the day the dissolution order is effective.

**Sec. 44. 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.

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Lieutenant Governor  
President of the Senate

---

Speaker of the House

I hereby certify that H. B. No. 116 was passed by the House on April 6, 1965, by a non-record vote.

---

Chief Clerk of the House

H. B. No. 116

I hereby certify that H. B. No. 116 was passed by the Senate on April 29, 1965, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED:

5-18-65

Date

---

Governor

*filed w/ Joz*

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

4135 200000

11 18 1965

*Edward G. Martin*  
Secretary of State

H. B. No. 116 By Connally

A BILL  
TO BE ENTITLED

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

FILED JAN 28 1965

FEB 2 1965 READ 1ST TIME  
AND REFERRED TO COMMITTEE ON  
Conservation & Reclamation

MAR 23 1965 REPORTED FAVORABLY AS AMENDED SENT TO PRINTER



MAR 2 1965 RETURNED FROM PRINTER. SENT TO SPEAKER

APR 6 1965 READ SECOND

TIME Amended AND  
ORDERED non-record vote ENGROSSED, by  
Dorothy Hallman  
Chief Clerk, House of Representatives

APR 6 1965

Read third time  
and Passed  
by following vote non-record  
Dorothy Hallman  
Chief Clerk  
HOUSE OF REPRESENTATIVES

APR 6 1965

MOTION TO RECONSIDER THE VOTE BY  
WHICH HB# 116 WAS  
ADOPTED / PASSED AND TO TABLE THE MOTION TO RECON-  
SIDER PREVAILED PASSED BY A non-record VOTE  
YES AND \_\_\_\_\_ NAYS \_\_\_\_\_  
Dorothy Hallman  
CHIEF CLERK HOUSE OF REPRESENTATIVES

APR 6 1965

Constitutional  
Rule requiring bills to be read on  
three several days suspended by  
A four-fifths vote.  
Yeas 143 Nays 2

APR 6 1965

Dorothy Hallman  
Chief Clerk, House of Representatives

SENT TO ENGROSSING CLERK

EMROLLED  
4-30-65  
Em: [Signature]

By: Connally

H. B. No. 116

D

A BILL TO BE ENTITLED

AN ACT

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

- 1-28-65 Filed.
- 2- 2-65 Read first time and referred to Committee on Conservation and Reclamation.
- 3-23-65 Reported favorably as amended, sent to printer.
- 3-23-65 Returned from printer, sent to Speaker.
- 4- 6-65 Read second time, amended and ordered engrossed by a non-record vote.
- 4- 6-65 Constitutional Rule requiring bills to be read on three several days suspended by a four-fifths vote: Yeas 143, Nays 2.
- 4- 6-65 Read third time and passed by a non-record vote.

Dorothy Hallman  
Chief Clerk, H. of R.

4- 6-65 Sent to Engrossing Clerk.

4- 6-65 Engrossed.

**APR 7 1965**  
**IN THE SENATE**

Received from  
the House.

APR 7 1965

APR 7 1965

Arac Suppiger  
Engrossing Clerk, H. of R.

RETURNED FROM ENGROSSING CLERK

SENT TO THE SENATE

**APR 12 1965**

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

**APR 29 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.

**APR 13 1965**

Reported Favorably,

**APR 29 1965**

READ THIRD TIME AND PASSED  
BY THE FOLLOWING VOTE:

Yeas 31 Nays 0

Charles Schnabel  
Secretary of the Senate

**APR 29 1965**

READ SECOND TIME,  
AND PASSED TO THIRD READING.

**APR 30 1965**

SENT TO HOUSE

APR 30 1965

RETURNED FROM SENATE

*Dorothy Hallman*

Chief Clerk, House of Representatives

APR 30 1965

SENT TO ENROLLING CLERK