

By Jimms.

S B. No. 206

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation, administration, powers, duties,
3 operations, fiscal procedures, and taxing authority of the Irion
4 County Water Conservation District.

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

6 SECTION 1. CREATION OF DISTRICT. On approval at the
7 election required by Section 6 of this Act, the Irion County Water
8 Conservation District is created under Article XVI, Section 59, of
9 the Texas Constitution.

10 SECTION 2. DEFINITION. In this Act, "district" means the
11 Irion County Water Conservation District.

12 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
13 that:

14 (1) the organization of the district is feasible and
15 practicable;

16 (2) the land to be included in and the residents of the
17 district will be benefited by the creation of the district;

18 (3) there is a public necessity for the district; and

19 (4) the creation of the district will further the public
20 welfare.

21 SECTION 4. BOUNDARIES. The district is composed of all the
22 territory located within Irion County.

23 SECTION 5. TEMPORARY DIRECTORS. (a) On the effective date
24 of this Act, the following persons are designated as temporary

1 directors of the district:

2 (1) Precinct 1--Loye Tankersley

3 (2) Precinct 2--Jim Westfall

4 (3) Precinct 3--Tim Bennie

5 (4) Precinct 4--Buck Whitley

6 (5) At Large--Jane D. Murray.

7 (b) If a vacancy occurs in the office of temporary director,
8 the remaining temporary directors shall select a person with the
9 same qualifications to fill the vacancy.

10 (c) The temporary directors shall select from their members
11 persons to serve as chairman, vice-chairman, and secretary.

12 SECTION 6. CREATION ELECTION. (a) Not later than the 30th
13 day after the effective date of this Act, the temporary directors
14 shall meet and shall call an election to be held not later than the
15 65th day after the effective date of this Act within the boundaries
16 of the proposed district to approve the creation of the district.

17 (b) In the order calling the election, the temporary
18 directors shall designate election precincts and polling places for
19 the election.

20 (c) The temporary directors shall publish notice of the
21 election at least one time in a newspaper or newspapers that have
22 general circulation within the boundaries of the proposed district.
23 The notice must be published before the 30th day preceding the date
24 of the election.

25 (d) The ballot for the election must be printed to provide
26 for voting for or against the proposition: "The creation of the
27 Irion County Water Conservation District."

1 (e) Immediately after the election, the presiding judge of
2 each polling place shall deliver the returns of the election to the
3 temporary directors, and the temporary directors shall canvass the
4 returns and declare the result.

5 (f) If a majority of the votes cast at the election favor
6 the creation of the district, the temporary directors shall declare
7 the district created and shall enter the results in their minutes.
8 If a majority of the votes cast at the election are against the
9 creation of the district, the temporary directors shall declare the
10 district defeated and shall enter the results in their minutes.
11 The temporary directors shall file a copy of the election results
12 with the Texas Department of Water Resources.

13 (g) If the creation of the district is defeated, further
14 elections may be called by the temporary directors to create the
15 district, but another election to confirm creation of the district
16 may not be called and held before the first anniversary of the most
17 recent creation election. If the district is not created within
18 five years after the effective date of this Act, this Act expires.

19 SECTION 7. INITIAL DIRECTORS. (a) On approval of the
20 creation of the district under Section 6 of this Act, the temporary
21 directors become the permanent directors of the district and shall
22 serve on the board of directors for terms as provided by Subsection
23 (b) of this section.

24 (b) The persons serving as directors for Precincts 1 and 3
25 shall serve as directors until the first regular meeting of the
26 board of directors in April following the first regular directors'
27 election. The persons serving as directors for Precincts 2 and 4

1 and the director serving at large shall serve until the first
2 regular meeting of the board of directors in April following the
3 second regular directors' election.

4 SECTION 8. COMPOSITION OF BOARD OF DIRECTORS. The board of
5 directors of the district is composed of five members.

6 SECTION 9. QUALIFICATIONS OF BOARD MEMBERS. (a) To be
7 qualified for election as a director, a person must be a resident
8 of the district and must be at least 18 years of age.

9 (b) In addition to the requirements of Subsection (a) of
10 this section, a person who is a director from a precinct must be a
11 resident of that precinct.

12 SECTION 10. ELECTION OF DIRECTORS. Beginning in the year
13 following the creation election, an election shall be held on the
14 first Saturday in April of each year to elect the appropriate
15 number of directors to the board.

16 SECTION 11. TERM OF OFFICE. Except for the initial
17 directors of the district, directors shall serve for terms of two
18 years.

19 SECTION 12. BEGINNING OF DIRECTOR'S TERM. A director takes
20 office at the first regular meeting of the board in April following
21 election to the board.

22 SECTION 13. VACANCY ON BOARD. A vacancy on the board is
23 filled by appointment of the remaining members of the board for the
24 unexpired term.

25 SECTION 14. OATH. Each director shall take the
26 constitutional oath of office required of state officers.

27 SECTION 15. COMPENSATION. Each director is entitled to

1 receive for his services not more than \$25 a day for each day
2 actually engaged in duties for the district.

3 SECTION 16. ORGANIZATION OF BOARD. (a) After each
4 directors' election, the board shall hold a regular meeting at the
5 district office and shall organize by electing from the members of
6 the board one person to serve as chairman, one person to serve as
7 vice-chairman, and one person to serve as secretary.

8 (b) A person selected to serve as chairman, vice-chairman,
9 or secretary serves in that capacity for a term of two years.

10 (c) The chairman shall preside over meetings of the board,
11 and in his absence, the vice-chairman shall preside.

12 (d) The chairman, vice-chairman, and secretary shall perform
13 the duties and may exercise the powers specifically given them by
14 this Act or by orders of the board.

15 SECTION 17. QUORUM. A majority of the members of the board
16 constitute a quorum for the transaction of business of the
17 district, but no official action of the board is valid without the
18 affirmative vote of a majority of the members of the board.

19 SECTION 18. OTHER OFFICERS. (a) The board shall appoint
20 persons to serve as treasurer and attorney for the district.

21 (b) The persons appointed under this section are entitled to
22 the compensation provided by the district's budget.

23 (c) The person appointed as treasurer shall execute a bond
24 in the amount determined by the board, payable to the district,
25 conditioned on the faithful performance of the treasurer's duties.
26 The district shall pay for the bond.

27 SECTION 19. GENERAL MANAGER. (a) The board may employ a

1 general manager to be the chief administrative officer of the
2 district and may delegate to him full authority to manage and
3 operate the affairs of the district subject only to orders of the
4 board.

5 (b) The general manager shall execute a bond in the amount
6 determined by the board, payable to the district, and conditioned
7 on the faithful performance of the general manager's duties. The
8 district shall pay for the bond.

9 (c) The general manager is entitled to receive the
10 compensation provided by the district's budget.

11 SECTION 20. ENGINEER. The board may appoint or contract
12 with a competent professional engineer for the district and may
13 determine the amount of compensation to be paid to the engineer.

14 SECTION 21. PERSONNEL. (a) The general manager or the
15 board may employ other persons necessary for the proper handling of
16 the business and operation of the district and may employ or
17 contract with expert and specialized personnel who are necessary to
18 carry out this Act.

19 (b) The board shall determine the terms of employment and
20 the compensation to be paid to employees under this section.

21 (c) The general manager or a majority of the members of the
22 board may dismiss an employee of the district.

23 (d) The board shall require each employee or person under
24 contract to the district who collects, pays, or handles any funds
25 of the district to furnish a bond, payable to the district, for an
26 amount sufficient to protect the district from financial loss
27 resulting from actions of the employee or other person. Each bond

1 shall be conditioned on the faithful performance of the employee's
2 or person's duties and on accounting for all money and property of
3 the district in his hands. The district shall pay for each bond.

4 SECTION 22. OFFICE. The board shall maintain an office
5 within the boundaries of the district for conducting the business
6 of the district.

7 SECTION 23. MEETINGS OF BOARD. The board shall hold regular
8 meetings at the district's office at least once each month on a
9 date established by rule of the board.

10 SECTION 24. MINUTES AND RECORDS. (a) The board shall keep
11 a complete written account of all its meetings and other
12 proceedings and shall preserve its minutes, contracts, records,
13 plans, notices, accounts, receipts, and records of all kinds in a
14 secure manner at the district's office.

15 (b) Minutes, contracts, records, plans, notices, accounts,
16 receipts, and other records are the property of the district and
17 are subject to public inspection.

18 SECTION 25. CONTRACTS. The board may enter into contracts
19 as provided by Chapter 51, Water Code, and those contracts shall be
20 executed by the board in the name of the district.

21 SECTION 26. SUPERVISION OF DISTRICT. The district is
22 subject to the continuing right of supervision by the state, to be
23 exercised by the Texas Department of Water Resources under this Act
24 and the Water Code.

25 SECTION 27. SUITS; PAYMENT OF JUDGMENTS. (a) The district
26 may, through its board, sue and be sued in any court of this state
27 in the name of the district. Service of process in a suit may be

1 had by serving the general manager.

2 (b) The courts of this state shall take judicial notice of
3 the creation of the district.

4 (c) A court of this state that renders a money judgment
5 against the district may require the board to pay the judgment from
6 money in the district depository that is not dedicated to the
7 payment of any indebtedness of the district.

8 SECTION 28. SEAL. The board shall adopt a seal for the
9 district.

10 SECTION 29. PURPOSE OF DISTRICT. The district is created to
11 provide for the conservation, preservation, protection, recharge,
12 and prevention of waste and pollution of the underground and
13 surface water of the district consistent with the objectives of
14 Article XVI, Section 59, of the Texas Constitution, and Chapters 51
15 and 52, Water Code.

16 SECTION 30. RULES. (a) The board may adopt rules that are
17 necessary to carry out the purpose and powers under this Act and
18 may enforce those rules by injunction, mandatory injunction, or
19 other appropriate remedies in a court of competent jurisdiction.

20 (b) In addition to the rules adopted under Subsection (a) of
21 this section, the board may adopt and enforce rules as provided by
22 Sections 51.127-51.132, Water Code.

23 SECTION 31. EXERCISE OF POWERS AND DUTIES UNDER WATER CODE.

24 (a) Except to the extent of any conflict with this Act or as
25 specifically limited by this Act, the district may exercise the
26 powers granted and shall exercise the duties under Subchapters D,
27 O, and P, Chapter 51, Water Code, and Subchapter D, Chapter 52,

1 Water Code, to carry out the purpose of the district and this Act.

2 SECTION 32. LIMITATION ON PERMIT AUTHORITY. If the district
3 regulates production of underground water by permit as authorized
4 by Chapter 52, Water Code, the board may not deny a permit to drill
5 a well to the owner of land, his heirs, assigns, and lessees on his
6 land and the right to produce water from that well under rules
7 adopted by the district.

8 SECTION 33. STUDIES AND SURVEYS. The board shall have
9 professional engineers make studies and surveys of the underground
10 and surface water supplies within the district and the facilities
11 available for use in the conservation, preservation, protection,
12 recharge, and prevention of waste and pollution of those water
13 resources. The professional engineers also shall determine the
14 quantities of both underground and surface water in the district.

15 SECTION 34. PLANS AND SPECIFICATIONS. The district shall
16 develop and implement comprehensive plans for the conservation,
17 preservation, protection, recharge, and prevention of waste and
18 pollution of underground and surface water within the district.
19 The plans shall include all works, facilities, and improvements
20 necessary to implement the plans and the specifications for those
21 works, facilities, and improvements.

22 SECTION 35. RESEARCH; INFORMATION. The district shall
23 engage in research projects and shall develop information to be
24 used by the district in preparing and implementing its plans and in
25 carrying out its powers and duties under this Act.

26 SECTION 36. CONTROL, STORAGE, AND PRESERVATION OF WATER FOR
27 CERTAIN PURPOSES. The district may control, store, and preserve

1 the storm and flood water in the district and the water of the
2 rivers and streams in the district for irrigation of arid land,
3 prevention of floods and flood damage in the district, and
4 domestic, agricultural, and industrial uses.

5 SECTION 37. RECLAMATION. The district may reclaim land
6 within the district and may construct necessary works, facilities,
7 and improvements to accomplish this purpose.

8 SECTION 38. SOIL CONSERVATION AND IMPROVEMENT; TERRACING.
9 The district may construct and maintain terraces and other
10 structures on land in the district and may engage in and promote
11 land treatment measures for soil conservation and improvement.

12 SECTION 39. ACQUISITION AND CONSTRUCTION OF WORKS,
13 FACILITIES, AND IMPROVEMENTS. (a) The district may construct or
14 acquire and improve and maintain works, facilities, and
15 improvements necessary to carry out the purpose, powers, and plans
16 of the district.

17 (b) The district shall construct and acquire works,
18 facilities, and improvements in the manner provided by Chapter 51,
19 Water Code, for water control and improvement districts.

20 SECTION 40. INPUT WELLS. The district may drill, equip,
21 operate, and maintain input wells, pumps, and other facilities to
22 carry out its purpose and powers under this Act.

23 SECTION 41. ACQUISITION OF PROPERTY. The district may
24 acquire by gift, grant, devise, lease, purchase, or condemnation
25 any land or other property necessary to carry out this Act.

26 SECTION 42. EMINENT DOMAIN. (a) The district may exercise
27 the power of eminent domain to acquire by condemnation a fee simple

1 or other interest in property located inside the district if the
2 property interest is necessary to the exercise of the authority
3 conferred by this chapter.

4 (b) The district must exercise the power of eminent domain
5 in the manner provided by Chapter 21, Property Code, but the
6 district is not required to deposit in the trial court money or a
7 bond as provided by Section 21.021(a), Property Code.

8 (c) In a condemnation proceeding brought by a district, the
9 district is not required to pay in advance or give bond or other
10 security for costs in the trial court, to give bond for the
11 issuance of a temporary restraining order or a temporary
12 injunction, or to give bond for costs or supersedeas on an appeal
13 or writ of error.

14 (d) In exercising the power of eminent domain, if the
15 district requires relocating, raising, lowering, rerouting,
16 changing the grade, or altering the construction of any railroad,
17 highway, pipeline, or electric transmission, telegraph, or
18 telephone lines, conduits, poles, or facilities, the district must
19 bear the actual cost of relocating, raising, lowering, rerouting,
20 changing the grade, or altering the construction to provide
21 comparable replacement without enhancement of facilities after
22 deducting the net salvage value derived for the old facility.

23 SECTION 43. SALE AND DISPOSAL OF PROPERTY. Subject to this
24 Act and Chapters 51 and 52, Water Code, the district may sell or
25 otherwise dispose of land and other property of the district that
26 is not necessary to carry out the purpose or powers of the district
27 as determined by the board of directors.

1 SECTION 44. PROHIBITED ACTIONS. (a) The district may not
2 enter into any contract or engage in any action to supply
3 underground or surface water inside or outside the district.

4 (b) The district may not issue bonds or levy a property tax
5 to secure the payment of bonds.

6 SECTION 45. PROTECTION OF WATER RIGHTS. The ownership and
7 rights of the owner of land, his lessees, and assigns in
8 underground and any surface water rights are recognized and this
9 Act does not deprive or divest the owner, his lessees, and assigns
10 of those ownership rights.

11 SECTION 46. FISCAL YEAR. (a) The district shall be
12 operated on the basis of a fiscal year established by the board.

13 (b) The fiscal year may not be changed more than once in a
14 24-month period.

15 SECTION 47. ANNUAL AUDIT. Annually, the board shall have an
16 audit made of the financial condition of the district.

17 SECTION 48. RECORDS. The annual audit and other district
18 records must be open to inspection during regular business hours at
19 the principal office of the district.

20 SECTION 49. ANNUAL BUDGET. (a) The board shall prepare and
21 approve an annual budget.

22 (b) The budget shall contain a complete financial statement,
23 including a statement of:

24 (1) the outstanding obligations of the district;

25 (2) the amount of cash on hand to the credit of the
26 district;

27 (3) the amount of money received by the district from all

1 sources during the previous year;

2 (4) the amount of money available to the district from all
3 sources during the ensuing year;

4 (5) the amount of the balances expected at the end of the
5 year in which the budget is being prepared;

6 (6) the estimated amount of revenues and balances available
7 to cover the proposed budget; and

8 (7) the estimated maintenance and operating tax rate that
9 will be required.

10 SECTION 50. NOTICE; HEARING; ADOPTION OF BUDGET. (a) The
11 board shall hold a public hearing on the annual budget.

12 (b) At least 10 days before the date set for the hearing,
13 notice of the hearing must be published in a newspaper or
14 newspapers that have general circulation within the boundaries of
15 the district.

16 (c) Any person residing within the boundaries of the
17 district is entitled to be present at and participate in the
18 hearing.

19 (d) At the conclusion of the hearing, the board shall act on
20 the budget and may make changes in the proposed budget that in its
21 judgment the interests of the taxpayers demand.

22 SECTION 51. AMENDING BUDGET. After the annual budget is
23 adopted, it may be amended on the board's approval.

24 SECTION 52. LIMITATION ON EXPENDITURES. Money may not be
25 spent for an expense not included in the annual budget or an
26 amendment to it.

27 SECTION 53. SWORN STATEMENT. As soon as practicable after

1 the close of the fiscal year, the general manager shall prepare for
2 the board a sworn statement of the amount of money that belongs to
3 the district and an account of the disbursements of that money.

4 SECTION 54. DEPOSITORY. (a) The board shall name one or
5 more banks to serve as depository for district funds.

6 (b) District funds shall be deposited as received with the
7 depository bank and shall remain on deposit. This subsection does
8 not limit the power of the board to place a portion of the
9 district's funds on time deposit or to purchase certificates of
10 deposit.

11 (c) Before the district deposits funds in a bank in an
12 amount that exceeds the maximum amount secured by the Federal
13 Deposit Insurance Corporation, the bank must execute a bond or
14 provide other security in an amount sufficient to secure from loss
15 the district's funds that exceed the amount secured by the Federal
16 Deposit Insurance Corporation.

17 SECTION 55. INVESTMENTS. (a) Funds of the district may be
18 invested and reinvested by the board or its authorized
19 representative in direct or indirect obligations of the United
20 States, the state, or any county, city, school district, or other
21 political subdivision of the state.

22 (b) Funds of the district may be placed in certificates of
23 deposit of state or national banks, or state or federal savings and
24 loan associations, within the state provided that the funds are
25 secured in the manner required for the security of the funds of
26 counties of the state.

27 (c) The board, by resolution, may provide that an authorized

1 representative of the district may invest and reinvest the funds of
2 the authority and provide for money to be withdrawn from the
3 appropriate accounts of the district for investments on such terms
4 as the board considers advisable.

5 SECTION 56. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The
6 district's directors may pay all costs and expenses necessarily
7 incurred in the creation and organization of the district, legal
8 fees, and other incidental expenses and may reimburse any person
9 for money advanced for these purposes.

10 (b) Payments may be made from money obtained from
11 maintenance taxes or other revenues of the district.

12 SECTION 57. BORROWING MONEY. The district may borrow money
13 for any purpose authorized under this Act or any combination of
14 those purposes.

15 SECTION 58. MAINTENANCE AND OPERATING TAX. (a) The
16 district may annually levy and collect a tax on property within the
17 boundaries of the district for use in maintaining facilities of the
18 district and for paying operating expenses of the district.

19 (b) A maintenance tax may not be levied by the district
20 until it is approved by a majority vote of the individuals
21 qualified to vote in the area within the boundaries of the district
22 voting at an election called and held for that purpose.

23 (c) A maintenance and operating tax election may be held at
24 the same time and in conjunction with the election to create the
25 district. The procedure for calling and holding an election and
26 for canvassing returns of an election under this section is the
27 same as for the creation election under Section 6 of this Act.

1 SECTION 59. BOARD AUTHORITY. (a) The board may levy taxes
2 for the entire year in which the district is created.

3 (b) The board shall levy taxes on all property within the
4 boundaries of the district subject to district taxation.

5 SECTION 60. TAX RATE. In setting the tax rate, the board
6 shall take into consideration the income of the district from
7 sources other than taxation. On determination of the amount of tax
8 required to be levied, the board shall make the levy and certify it
9 to the tax assessor-collector.

10 SECTION 61. TAX APPRAISAL, ASSESSMENT, AND COLLECTION. (a)
11 The Tax Code governs the appraisal, assessment, and collection of
12 district taxes.

13 (b) The board may provide for the appointment of a tax
14 assessor-collector for the district or may contract for the
15 assessment and collection of taxes as provided by the Tax Code.

16 SECTION 62. EMERGENCY. The importance of this legislation
17 and the crowded condition of the calendars in both houses create an
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended,
21 and that this Act take effect and be in force from and after its
22 passage, and it is so enacted.

1 By: Sims S.B. No. 206
2 (In the Senate - Filed January 18, 1985; January 21, 1985,
3 read first time and referred to Committee on Natural Resources;
4 March 5, 1985, reported adversely, with favorable Committee
5 Substitute; March 5, 1985, sent to printer.)

6 COMMITTEE SUBSTITUTE FOR S.B. No. 206 By: Sims

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29 territory located within Irion County.

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37 (5) At Large--Jane D. Murray.

38 (b) If a vacancy occurs in the office of temporary director,
39 the remaining temporary directors shall select a person with the
40 same qualifications as provided by Section 9 of this Act to fill
41 the vacancy.

42 (c) The temporary directors shall select from their members
43 persons to serve as chairman, vice-chairman, and secretary.

44 SECTION 6. CREATION ELECTION. (a) Not later than the 30th
45 day after the effective date of this Act, the temporary directors
46 shall meet and shall call an election to be held not later than the
47 120th day after the effective date of this Act within the
48 boundaries of the proposed district to approve the creation of the
49 district.

50 (b) In the order calling the election, the temporary
51 directors shall designate election precincts and polling places for
52 the election.

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54 election at least one time in a newspaper or newspapers that have
55 general circulation within the boundaries of the proposed district.
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59 for voting for or against the proposition: "The creation of the
60 Irion County Water Conservation District."

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62 each polling place shall deliver the returns of the election to the
63 temporary directors, and the temporary directors shall canvass the
64 returns and declare the result.

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66 the creation of the district, the temporary directors shall declare
67 the district created and shall enter the results in their minutes.
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1 creation of the district, the temporary directors shall declare the
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6 elections may be called by the temporary directors to create the
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25 (b) One director shall be elected from the district at large
26 and one director shall be elected from each county commissioners
27 precinct.

28 SECTION 9. QUALIFICATIONS OF BOARD MEMBERS. (a) To be
29 qualified for election as a director, a person must be a resident
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31 (b) In addition to the requirements of Subsection (a) of
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62 the duties and may exercise the powers specifically given them by
63 this Act or by orders of the board.

64 SECTION 17. QUORUM. A majority of the members of the board
65 constitute a quorum for the transaction of business of the
66 district, but no official action of the board is valid without the
67 affirmative vote of a majority of the members of the board.

68 SECTION 18. OTHER OFFICERS. (a) The board shall appoint
69 persons to serve as treasurer and attorney for the district.

70 (b) The persons appointed under this section are entitled to

1 the compensation provided by the district's budget.

2 (c) The person appointed as treasurer shall execute a bond
3 in the amount determined by the board, payable to the district,
4 conditioned on the faithful performance of the treasurer's duties.
5 The district shall pay for the bond.

6 SECTION 19. GENERAL MANAGER. (a) The board may employ a
7 general manager to be the chief administrative officer of the
8 district and may delegate to him full authority to manage and
9 operate the affairs of the district subject only to orders of the
10 board.

11 (b) The general manager shall execute a bond in the amount
12 determined by the board, payable to the district, and conditioned
13 on the faithful performance of the general manager's duties. The
14 district shall pay for the bond.

15 (c) The general manager is entitled to receive the
16 compensation provided by the district's budget.

17 SECTION 20. ENGINEER. The board may appoint or contract
18 with a competent professional engineer for the district and may
19 determine the amount of compensation to be paid to the engineer.

20 SECTION 21. PERSONNEL. (a) The general manager or the
21 board may employ other persons necessary for the proper handling of
22 the business and operation of the district and may employ or
23 contract with expert and specialized personnel who are necessary to
24 carry out this Act.

25 (b) The board shall determine the terms of employment and
26 the compensation to be paid to employees under this section.

27 (c) The general manager or a majority of the members of the
28 board may dismiss an employee of the district.

29 (d) The board shall require each employee or person under
30 contract to the district who collects, pays, or handles any funds
31 of the district to furnish a bond, payable to the district, for an
32 amount sufficient to protect the district from financial loss
33 resulting from actions of the employee or other person. Each bond
34 shall be conditioned on the faithful performance of the employee's
35 or person's duties and on accounting for all money and property of
36 the district in his hands. The district shall pay for each bond.

37 SECTION 22. OFFICE. The board shall maintain an office
38 within the boundaries of the district for conducting the business
39 of the district.

40 SECTION 23. MEETINGS OF BOARD. The board shall hold regular
41 meetings at the district's office at least once each month on a
42 date established by rule of the board.

43 SECTION 24. MINUTES AND RECORDS. (a) The board shall keep
44 a complete written account of all its meetings and other
45 proceedings and shall preserve its minutes, contracts, records,
46 plans, notices, accounts, receipts, and records of all kinds in a
47 secure manner at the district's office.

48 (b) Minutes, contracts, records, plans, notices, accounts,
49 receipts, and other records are the property of the district and
50 are subject to public inspection.

51 SECTION 25. CONTRACTS. The board may enter into contracts
52 as provided by Chapter 51, Water Code, and those contracts shall be
53 executed by the board in the name of the district.

54 SECTION 26. SUPERVISION OF DISTRICT. The district is
55 subject to the continuing right of supervision by the state, to be
56 exercised by the Texas Department of Water Resources under this Act
57 and the Water Code.

58 SECTION 27. SUITS; PAYMENT OF JUDGMENTS. (a) The district
59 may, through its board, sue and be sued in any court of this state
60 in the name of the district. Service of process in a suit may be
61 had by serving the general manager.

62 (b) The courts of this state shall take judicial notice of
63 the creation of the district.

64 (c) A court of this state that renders a money judgment
65 against the district may require the board to pay the judgment from
66 money in the district depository that is not dedicated to the
67 payment of any indebtedness of the district.

68 SECTION 28. SEAL. The board shall adopt a seal for the
69 district.

70 SECTION 29. PURPOSE OF DISTRICT. The district is created to

1 provide for the conservation, preservation, protection, recharge,
2 and prevention of waste and pollution of the underground and
3 surface water of the district consistent with the objectives of
4 Article XVI, Section 59, of the Texas Constitution, and Chapters 51
5 and 52, Water Code.

6 SECTION 30. RULES. (a) The board may adopt rules that are
7 necessary to carry out the purpose and powers under this Act and
8 may enforce those rules by injunction, mandatory injunction, or
9 other appropriate remedies in a court of competent jurisdiction.

10 (b) In addition to the rules adopted under Subsection (a) of
11 this section, the board may adopt and enforce rules as provided by
12 Sections 51.127 through 51.132, Water Code, as amended.

13 SECTION 31. EXERCISE OF POWERS AND DUTIES UNDER WATER CODE.
14 Except to the extent of any conflict with this Act or as
15 specifically limited by this Act, the district may exercise the
16 powers granted and shall exercise the duties under Subchapters D,
17 O, and P, Chapter 51, Water Code, and Subchapter D, Chapter 52,
18 Water Code, to carry out the purpose of the district and this Act.

19 SECTION 32. LIMITATION ON PERMIT AUTHORITY. If the district
20 regulates production of underground water by permit as authorized
21 by Chapter 52, Water Code, the board may not deny a permit to drill
22 a well to the owner of land, his heirs, assigns, and lessees on his
23 land and the right to produce water from that well under rules
24 adopted by the district.

25 SECTION 33. STUDIES AND SURVEYS. The board shall have
26 professional engineers make studies and surveys of the underground
27 and surface water supplies within the district and the facilities
28 available for use in the conservation, preservation, protection,
29 recharge, and prevention of waste and pollution of those water
30 resources. The professional engineers also shall determine the
31 quantities of both underground and surface water in the district.

32 SECTION 34. PLANS AND SPECIFICATIONS. The district shall
33 develop and implement comprehensive plans for the conservation,
34 preservation, protection, recharge, and prevention of waste and
35 pollution of underground and surface water within the district.
36 The plans shall include all works, facilities, and improvements
37 necessary to implement the plans and the specifications for those
38 works, facilities, and improvements.

39 SECTION 35. RESEARCH; INFORMATION. The district shall
40 engage in research projects and shall develop information to be
41 used by the district in preparing and implementing its plans and in
42 carrying out its powers and duties under this Act.

43 SECTION 36. CONTROL, STORAGE, AND PRESERVATION OF WATER FOR
44 CERTAIN PURPOSES. Subject to obtaining the permits required by
45 law, the district may control, store, and preserve the storm water
46 and floodwater in the district and the water of the rivers and
47 streams in the district for irrigation of arid land, prevention of
48 floods and flood damage in the district, and domestic,
49 agricultural, and industrial uses.

50 SECTION 37. RECLAMATION. The district may reclaim land
51 within the district and may construct necessary works, facilities,
52 and improvements to accomplish this purpose.

53 SECTION 38. SOIL CONSERVATION AND IMPROVEMENT; TERRACING.
54 The district may construct and maintain terraces and other
55 structures on land in the district and may engage in and promote
56 land treatment measures for soil conservation and improvement.

57 SECTION 39. ACQUISITION AND CONSTRUCTION OF WORKS,
58 FACILITIES, AND IMPROVEMENTS. (a) The district may construct or
59 acquire and improve and maintain works, facilities, and
60 improvements necessary to carry out the purpose, powers, and plans
61 of the district.

62 (b) The district shall construct and acquire works,
63 facilities, and improvements in the manner provided by Chapter 51,
64 Water Code, for water control and improvement districts.

65 SECTION 40. INPUT WELLS. The district may drill, equip,
66 operate, and maintain input wells, pumps, and other facilities to
67 carry out its purpose and powers under this Act.

68 SECTION 41. ACQUISITION OF PROPERTY. The district may
69 acquire by gift, grant, devise, lease, purchase, or condemnation
70 any land or other property necessary to carry out this Act.

71 SECTION 42. EMINENT DOMAIN. (a) The district may exercise

1 the power of eminent domain to acquire by condemnation a fee simple
2 or other interest in property located inside the district if the
3 property interest is necessary to the exercise of the authority
4 conferred by this chapter.

5 (b) The district must exercise the power of eminent domain
6 in the manner provided by Chapter 21, Property Code, but the
7 district is not required to deposit in the trial court money or a
8 bond as provided by Subsection (a), Section 21.021, Property Code.

9 (c) In a condemnation proceeding brought by a district, the
10 district is not required to pay in advance or give bond or other
11 security for costs in the trial court, to give bond for the
12 issuance of a temporary restraining order or a temporary
13 injunction, or to give bond for costs or supersedeas on an appeal
14 or writ of error.

15 (d) In exercising the power of eminent domain, if the
16 district requires relocating, raising, lowering, rerouting,
17 changing the grade, or altering the construction of any railroad,
18 highway, pipeline, or electric transmission and electric
19 distribution, telegraph, or telephone lines, conduits, poles, or
20 facilities, the district must bear the actual cost of relocating,
21 raising, lowering, rerouting, changing the grade, or altering the
22 construction to provide comparable replacement without enhancement
23 of facilities after deducting the net salvage value derived for the
24 old facility.

25 SECTION 43. SALE AND DISPOSAL OF PROPERTY. Subject to this
26 Act and Chapters 51 and 52, Water Code, the district may sell or
27 otherwise dispose of land and other property of the district that
28 is not necessary to carry out the purpose or powers of the district
29 as determined by the board.

30 SECTION 44. PROHIBITED ACTIONS. (a) The district may not
31 enter into any contract or engage in any action to supply
32 underground or surface water inside or outside the district.

33 (b) The district may not issue bonds or levy a property tax
34 to secure the payment of bonds.

35 SECTION 45. PROTECTION OF WATER RIGHTS. The ownership and
36 rights of the owner of land, his lessees, and assigns in
37 underground and any surface water rights are recognized and this
38 Act does not deprive or divest the owner, his lessees, and assigns
39 of those ownership rights.

40 SECTION 46. FISCAL YEAR. (a) The district shall be
41 operated on the basis of a fiscal year established by the board.

42 (b) The fiscal year may not be changed more than once in a
43 24-month period.

44 SECTION 47. ANNUAL AUDIT. Annually, the board shall have an
45 audit made of the financial condition of the district.

46 SECTION 48. RECORDS. The annual audit and other district
47 records must be open to inspection during regular business hours at
48 the principal office of the district.

49 SECTION 49. ANNUAL BUDGET. (a) The board shall prepare and
50 approve an annual budget.

51 (b) The budget shall contain a complete financial statement,
52 including a statement of:

53 (1) the outstanding obligations of the district;
54 (2) the amount of cash on hand to the credit of the
55 district;

56 (3) the amount of money received by the district from all
57 sources during the previous year;

58 (4) the amount of money available to the district from all
59 sources during the ensuing year;

60 (5) the amount of the balances expected at the end of the
61 year in which the budget is being prepared;

62 (6) the estimated amount of revenues and balances available
63 to cover the proposed budget; and

64 (7) the estimated maintenance and operating tax rate that
65 will be required.

66 SECTION 50. NOTICE; HEARING; ADOPTION OF BUDGET. (a) The
67 board shall hold a public hearing on the annual budget.

68 (b) At least 10 days before the date set for the hearing,
69 notice of the hearing must be published in a newspaper or
70 newspapers that have general circulation within the boundaries of
71 the district.

1 (c) Any person residing within the boundaries of the
2 district is entitled to be present at and participate in the
3 hearing.

4 (d) At the conclusion of the hearing, the board shall act on
5 the budget and may make changes in the proposed budget that in its
6 judgment the interests of the taxpayers demand.

7 SECTION 51. AMENDING BUDGET. After the annual budget is
8 adopted, it may be amended on the board's approval.

9 SECTION 52. LIMITATION ON EXPENDITURES. Money may not be
10 spent for an expense not included in the annual budget or an
11 amendment to it.

12 SECTION 53. SWORN STATEMENT. As soon as practicable after
13 the close of the fiscal year, the general manager shall prepare for
14 the board a sworn statement of the amount of money that belongs to
15 the district and an account of the disbursements of that money.

16 SECTION 54. DEPOSITORY. (a) The board shall name one or
17 more banks to serve as depository for district funds.

18 (b) District funds shall be deposited as received with the
19 depository bank and shall remain on deposit. This subsection does
20 not limit the power of the board to place a portion of the
21 district's funds on time deposit or to purchase certificates of
22 deposit.

23 (c) Before the district deposits funds in a bank in an
24 amount that exceeds the maximum amount secured by the Federal
25 Deposit Insurance Corporation, the bank must execute a bond or
26 provide other security in an amount sufficient to secure from loss
27 the district's funds that exceed the amount secured by the Federal
28 Deposit Insurance Corporation.

29 SECTION 55. INVESTMENTS. (a) Funds of the district may be
30 invested and reinvested by the board or its authorized
31 representative in direct or indirect obligations of the United
32 States, the state, or any county, city, school district, or other
33 political subdivision of the state.

34 (b) Funds of the district may be placed in certificates of
35 deposit of state or national banks, or state or federal savings and
36 loan associations, within the state provided that the funds are
37 secured in the manner required for the security of the funds of
38 counties of the state.

39 (c) The board by resolution may provide that an authorized
40 representative of the district may invest and reinvest the funds of
41 the authority and provide for money to be withdrawn from the
42 appropriate accounts of the district for investments on such terms
43 as the board considers advisable.

44 SECTION 56. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The
45 district's directors may pay all costs and expenses necessarily
46 incurred in the creation and organization of the district, legal
47 fees, and other incidental expenses and may reimburse any person
48 for money advanced for these purposes.

49 (b) Payments may be made from money obtained from
50 maintenance taxes or other revenues of the district.

51 SECTION 57. BORROWING MONEY. The district may borrow money
52 for any purpose authorized under this Act or any combination of
53 those purposes.

54 SECTION 58. MAINTENANCE AND OPERATING TAX. (a) The
55 district may annually levy and collect a tax on property within the
56 boundaries of the district for use in maintaining facilities of the
57 district and for paying operating expenses of the district.

58 (b) A maintenance and operating tax may not be levied by the
59 district until it is approved by a majority vote of the individuals
60 qualified to vote in the area within the boundaries of the district
61 voting at an election called and held for that purpose.

62 (c) A maintenance and operating tax election may be held at
63 the same time and in conjunction with the election to create the
64 district. The procedure for calling and holding an election and
65 for canvassing returns of an election under this section is the
66 same as for the creation election under Section 6 of this Act.

67 SECTION 59. BOARD AUTHORITY. (a) The board may levy taxes
68 for the entire year in which the district is created.

69 (b) The board shall levy taxes on all property within the
70 boundaries of the district subject to district taxation.

1 SECTION 60. TAX RATE. In setting the tax rate, the board
2 shall take into consideration the income of the district from
3 sources other than taxation. On determination of the amount of tax
4 required to be levied, the board shall make the levy and certify it
5 to the tax assessor-collector.

6 SECTION 61. TAX APPRAISAL, ASSESSMENT, AND COLLECTION. (a)
7 The Tax Code governs the appraisal, assessment, and collection of
8 district taxes.

9 (b) The board may provide for the appointment of a tax
10 assessor-collector for the district or may contract for the
11 assessment and collection of taxes as provided by the Tax Code.

12 SECTION 62. EMERGENCY. The importance of this legislation
13 and the crowded condition of the calendars in both houses create an
14 emergency and an imperative public necessity that the
15 constitutional rule requiring bills to be read on three several
16 days in each house be suspended, and this rule is hereby suspended,
17 and that this Act take effect and be in force from and after its
18 passage, and it is so enacted.

19 * * * * *

20 Austin, Texas
21 March 5, 1985

22 Hon. William P. Hobby
23 President of the Senate

24 Sir:

25 We, your Committee on Natural Resources to which was referred S.B.
26 No. 206, have had the same under consideration, and I am instructed
27 to report it back to the Senate with the recommendation that it do
28 not pass, but that the Committee Substitute adopted in lieu thereof
29 do pass and be printed.

30 Santiesteban, Chairman

BILL ANALYSIS

C.S.S.B. 206

By: Sims

BACKGROUND: Irion County is located just west of San Angelo in the western part of the Colorado River Basin. Because the county only receives about 16 inches of rainfall annually, it is heavily dependent on the waters of the Edwards-Trinity aquifer which it overlies. The lower part of the aquifer is 100 feet thick, and the upper part of the aquifer is about 500 feet thick. Water in the aquifer is fresh, and high capacity wells yield about 250 gallons per minute.

However, because oil and gas corporations have some interest in the primarily rural county, saltwater injection wells have been drilled through the aquifer which would threaten the underground water supply.

The people of Irion County are concerned about possible pollution from the saltwater injection wells. The major problems with the wells is that leaks could occur through the casing and during plugging of the wells. Cracks and fissures underground provide pathways for saltwater to escape to fresh water. The liability for the company that drills the wells has been eliminated, but the threat to the public remains.

Additionally, SB 206 functions through the creations of a surface and underground conservation district. Legislation currently under consideration by the legislature would greatly increase the power of the state to manage ground water resources. The citizens of Irion County feel that a locally controlled district would best represent the county's interest.

PURPOSE: SB 206 would create a conservation district to manage the surface and ground water resources in Irion County. Section-by Section Analysis

SECTION 1. Creates the Irion County Water Conservation District on approval at the election.

SECTION 2. Defines "district".

SECTION 3. Lists legislative findings:

- (1) organization of district is feasible and practical
- (2) the land and residents will benefit by the creation of the district
- (3) public necessity exists for the district
- (4) the district will further public welfare

SECTION 4. Delineates the boundaries of district.

TEMPORARY DIRECTORS

SECTION 5. (a) Designates the following as temporary directors:

- (1) Precinct 1--Loye Tankersley
- (2) Precinct 2--Jim Westfall
- (3) Precinct 3--Tim Bennie
- (4) Precinct 4--Buck Whitley
- (5) At Large--Jane D. Murray

(b) Requires the temporary directors to fill a vacancy by selecting a person with the required qualifications.

(c) Charges the temporary directors to select from their members a chairman, vice-chairman and secretary.

SECTION 6 (a) Requires the temporary directors to meet 30 days after the effective date in order to call an election to be held not later than 65 days after the effective date.

(c) Requires the temporary directors to designate election precincts and polling places.

(c) Requires the temporary directors to publish at least one notice of election 30 days before the election.

(d) The election ballot must provide for voting for or against the proposition.

(e) Charges the presiding judge of each polling place to deliver the election results to the temporary directors for disclosure.

(f) Requires the temporary directors to declare a district created if votes are favorable and to declare a district defeated if majority of votes are against. Also they must file copy of election results with Texas Department of Water Resources.

(g) Allows temporary directors to hold further elections, but not an election to confirm the creation of a district. Sets the expiration date of Act at 5 years after effective date if no district is created.

SECTION 7. INITIAL DIRECTORS

(a) Designates the temporary directors as initial directors upon approval of district.

(b) Sets the term expiration dates for Precincts 1 and 3 on the first board meeting of April after first regular directors' election, and Precincts 2 and 4 and director-at-large on the first board meeting after the second regular directors' election.

SECTION 8

(a) Limits the composition of board to five members.

(b) Board must compose of one director at large and one director from each county commissioner's precinct.

SECTION 9

(a) Requires a director to be a resident of the district and at least 18 years of age.

(b) Requires precinct director to be a resident of county commissioners district.

SECTION 10. Elections must be held every year on the first Saturday in April.

SECTION 11. Sets the terms at two years.

SECTION 12. The terms of the directors begin on the first Board meeting in April following the election.

SECTION 13. Board members shall fill a vacancy by appointment.

SECTION 14. Requires that each director take the constitutional oath of office.

SECTION 15. Entitles the directors to \$25 a day for service.

SECTION 16. (a) A chairman, vice-chairman, and secretary will be elected from among the directors.

(b) Sets 2 year terms for chairman, vice-chairman, and secretary.

(c) Charges the chairman to preside over meetings and vice-chairman to preside in chairman's absence.

(d) Requires the chairman, vice-chairman and secretary to perform the duties and powers under this Act.

SECTION 17. Constitutes the quorum for business transactions at a majority of members, but no official action is valid without affirmative vote of a majority of board members.

SECTION 18. (a) Requires the board to appoint a treasurer and attorney.

(b) Entitles persons appointed under this section to compensation.

(c) Charges the treasurer to execute a bond.

SECTION 19. (a) Permits the Board to employ a general manager.

(b) Charges the general manager to execute a bond according to Board's specifications.

(c) Entitles the general manager to receive compensation.

SECTION 20. Permits the board to appoint or contract an engineer.

SECTION 21. (a) Permits the general manager or the board to employ other persons or specialized personnel who are necessary to carry out the purpose of this Act.

(b) Requires the board to set the terms of employment and the amount of compensation.

(c) Permits the general manager or board to dismiss district employees.

(d) Requires employees handling district funds to furnish a bond for the protection from financial loss. The district shall pay for the bond.

SECTION 22. Requires the board to maintain an office within the district.

SECTION 23. Requires the Board to hold meetings at least once a month at the district office.

SECTION 24. (a) Requires the Board to keep an account of all meetings and records at the district office.
(b) Subjects the minutes and records to public inspection.

SECTION 25. Permits the Board to enter contracts as provided by Chapter 51 of Water Code.

SECTION 26. Subjects the district to supervision by the Texas Department of Water Resources.

SECTION 27. (a) permits the district to sue or be sued in any court of this state.
(b) Requires state courts to take judicial notice of the creation of the district.
(c) Permits a state court to require the district to pay a money judgement from the district's depository.

SECTION 28. Requires the district to adopt a seal.

SECTION 29. Charges the district to provide for the conservation, preservation, protection, recharge, and prevention of waste and pollution of the underground and surface water of the district consistent with the objectives of Art. XVI, Sec. 59 of the Texas Constitution, and Chapters 51 and 52 of Water Code.

SECTION 30. (a) Permits the Board to adopt and enforce rules needed to carry out this Act.

(b) Permits the Board to adopt and enforce rules as provided by Sections 51.127 - 15.132 of Water Code.

SECTION 31. Permits the district to exercise the powers and duties under Subchapters D, O, and P, Chapter 51 and Subchapter D, Chapter 52 of the Water Code.

SECTION 32. Limits the district's well permit authority by not allowing them to deny a permit to drill a well or right to produce water to the owner of land, his heirs, assigns and leases.

SECTION 33. Requires the Board to employ a professional engineer to make studies and surveys of the underground and surface water supplies and to determine the amount of both underground and surface water in the district.

SECTION 34. Requires the district to develop and implement plans and specifications to carry out the purpose of this Act.

SECTION 35. Requires the district to engage in research and develop information to aid in the implementation of plans under this Act.

SECTION 36. Permits the district to conduct, store, and preserve water for purposes such as irrigation, flood control; and domestic, agricultural, and industrial uses.

SECTION 37. Permits the district to reclaim land within the district.

SECTION 38. Permits the district to engage in terracing and land treatment for soil conservation and improvement.

SECTION 39. (a) Permits the district to acquire and construct works, facilities, and improvements.

(b) Requires the district to act in accordance with Chapter 51 of Water Code.

SECTION 40. Permits the district to drill, equip, operate, and maintain input wells.

SECTION 41. Permits the district to acquire property by gift, grant, devise, lease, purchase, or condemnation.

SECTION 42. (a) Grants the district the power of eminent domain.

(b) Power of eminent domain must be exercised according to Chapter 21 of the Property Code, but the district is not required to deposit money or a bond in the trial court.

(c) Waives the requirement of giving bond for trial court costs, issuance of a temporary restraining order or injunction, and an appeal or writ of error.

(d) Requires the district to bear the actual cost of exercising the power of eminent domain.

SECTION 43. Subject to this Act and Chapters 51 and 52 of the Water Code, the district may sell or dispose of property not necessary to carry out this Act.

SECTION 44. (a) Prohibits the district from supplying underground or surface water inside or outside the district.

(b) Prohibits the issuance of bonds or the levy of property tax to secure the payment of bonds.

SECTION 45. Protects the water rights of the owner of the land.

SECTION 46. (a) Requires the district to operate on a fiscal year basis.

(b) The fiscal year may not be changed more than once in a 24-month period.

SECTION 47. Requires the district to perform an annual audit.

SECTION 48. Requires that the audits and records be open to public inspection.

SECTION 49. (a) Requires the Board to prepare and approve an annual budget

(b) The budget shall contain the following:

(1) outstanding obligations

(2) amount of cash on hand

(3) amount of money received by the district from all sources during the previous year

(4) amount of available money

(5) expected ending balances

(6) estimated revenues and balances

(7) estimated maintenance and operating tax rate

SECTION 50. (a) Requires the Board to hold a public hearing on annual budget.

(b) Notice of hearing must be published 10 days before hearing.

(c) Entitles district residents the right to participate in hearings.

(d) Requires the Board to modify the proposed budget so that it reflects the taxpayers interests.

SECTION 52. Limits expenditures to items only included in the annual budget.

SECTION 53. Requires the general manager to prepare a sworn statement of the district's amount of money and an account of disbursements.

SECTION 54. (a) Requires the Board to name which banks serve as depositories.

(b) Requires that district funds be deposited in banks. Allows the Board to place portion of funds on time deposit or purchase certificates of deposit.

(c) Requires the bank depository to execute a bond or provide security to secure funds that exceed the maximum amount secured by the F.D.I.C.

SECTION 55. (a) Permits the Board to invest or reinvest district funds in obligations of the U.S., the state, or any county, city, school district, or other political subdivisions of the state.

(b) Permits district funds to be placed in certificates of deposit.

(c) Permits the Board, by resolution, to invest or reinvest district funds through an authorized representative.

SECTION 56. (a) Permits the Board to pay all organizational expenses.

(b) Permits payments to be obtained from maintenance taxes or other revenues.

SECTION 57. Permits the district to borrow money to carry out the purposes of this Act.

SECTION 58. (a) Permits the district to levy a maintenance and operating tax.

(b) The maintenance tax must be approved by a majority vote of the district residents.

(c) Permits a maintenance and operating tax election to be held at the same time as an election to create a district.

SECTION 59. (a) permits the Board to levy taxes.
(b) Requires the Board to levy taxes on all property subject to district taxation.

SECTION 60. Requires the Board to consider other sources of income in setting the tax rate. The tax rate must be certified by the assessor-collector.

SECTION 61. (a) The Tax Code governs the appraisal, assessment, and collection of district taxes.
(b) Permits the Board to appoint a district tax assessor-collector or may contract one.

SECTION 62. Emergency Clause.

RULE-MAKING AUTHORITY

This Act grants the Irion County Water Conservation District the power to levy tax on all property within the boundaries of the district and to adopt rules that are necessary to provide for the conservation, preservation, protection, recharge, and prevention of waste and pollution of underground and surface water.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

January 31, 1985

Honorable H. Tati Santiesteban, Chairman
Committee on Natural Resources
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 206
By: Sims

Sir:

In response to your request for a Fiscal Note on Senate Bill No. 206 (relating to the creation, administration, powers, duties operations, fiscal procedures, and taxing authority of the Irion County Water Conservation District) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal impact on units of local government.


Jim Oliver
Director

Source: Secretary of State;
LBB Staff: JO, JH, DS

se.
A/A

By Sims

S.B. No. 206

Substitute the following for S.B. No. 206:

By _____

C.S.S.B. No. 206

A BILL TO BE ENTITLED

AN ACT

1 relating to the creation, administration, powers, duties,
2 operations, fiscal procedures, and taxing authority of the Irion
3 County Water Conservation District.
4

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

6 SECTION 1. CREATION OF DISTRICT. On approval at the
7 election required by Section 6 of this Act, the Irion County Water
8 Conservation District is created under Article XVI, Section 59, of
9 the Texas Constitution.

10 SECTION 2. DEFINITION. In this Act, "district" means the
11 Irion County Water Conservation District.

12 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
13 that:

14 (1) the organization of the district is feasible and
15 practicable;

16 (2) the land to be included in and the residents of the
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18 (3) there is a public necessity for the district; and

19 (4) the creation of the district will further the public
20 welfare.

21 SECTION 4. BOUNDARIES. The district is composed of all the
22 territory located within Irion County.

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24 of this Act, the following persons are designated as temporary

3/5/85
3/6/85

1 directors of the district: $\frac{1}{2}$

2 (1) Precinct 1--Loye Tankersley

3 (2) Precinct 2--Jim Westfall

4 (3) Precinct 3--Tim Bennie

5 (4) Precinct 4--Buck Whitley

6 (5) At Large--Jane D. Murray.

7 (b) If a vacancy occurs in the office of temporary director,
8 the remaining temporary directors shall select a person with the
9 same qualifications as provided by Section 9 of this Act to fill
10 the vacancy.

11 (c) The temporary directors shall select from their members
12 persons to serve as chairman, vice-chairman, and secretary.

13 SECTION 6. CREATION ELECTION. (a) Not later than the 30th
14 day after the effective date of this Act, the temporary directors
15 shall meet and shall call an election to be held not later than the
16 120th day after the effective date of this Act within the
17 boundaries of the proposed district to approve the creation of the
18 district.

19 (b) In the order calling the election, the temporary
20 directors shall designate election precincts and polling places for
21 the election.

22 (c) The temporary directors shall publish notice of the
23 election at least one time in a newspaper or newspapers that have
24 general circulation within the boundaries of the proposed district.
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26 of the election.

27 (d) The ballot for the election must be printed to provide $\frac{2}{3}$

1 for voting for or against the proposition: "The creation of the
2 Irion County Water Conservation District."

3 (e) Immediately after the election, the presiding judge of
4 each polling place shall deliver the returns of the election to the
5 temporary directors, and the temporary directors shall canvass the
6 returns and declare the result.

7 (f) If a majority of the votes cast at the election favor
8 the creation of the district, the temporary directors shall declare
9 the district created and shall enter the results in their minutes.
10 If a majority of the votes cast at the election are against the
11 creation of the district, the temporary directors shall declare the
12 district defeated and shall enter the results in their minutes.
13 The temporary directors shall file a copy of the election results
14 with the Texas Department of Water Resources.

15 (g) If the creation of the district is defeated, further
16 elections may be called by the temporary directors to create the
17 district, but another election to confirm creation of the district
18 may not be called and held before the first anniversary of the most
19 recent creation election. If the district is not created within
20 five years after the effective date of this Act, this Act expires.

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26 (b) The persons serving as directors for Precincts 1 and 3
27 shall serve as directors until the first regular meeting of the

1 board of directors in April following the first regular directors'
2 election. The persons serving as directors for Precincts 2 and 4
3 and the director serving at large shall serve until the first
4 regular meeting of the board of directors in April following the
5 second regular directors' election.

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7 board of directors of the district is composed of five members.

8 (b) One director shall be elected from the district at large
9 and one director shall be elected from each county commissioners
10 precinct.

11 SECTION 9. QUALIFICATIONS OF BOARD MEMBERS. (a) To be
12 qualified for election as a director, a person must be a resident
13 of the district and must be at least 18 years of age.

14 (b) In addition to the requirements of Subsection (a) of
15 this section, a person who is a director from a county
16 commissioners precinct must be a resident of that precinct.

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18 following the creation election, an election shall be held on the
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20 number of directors to the board.

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23 years.

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26 election to the board. *4/5*

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1 filled by appointment of the remaining members of the board for the
2 unexpired term.

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4 constitutional oath of office required of state officers.

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9 directors' election, the board shall hold a regular meeting at the
10 district office and shall organize by electing from the members of
11 the board one person to serve as chairman, one person to serve as
12 vice-chairman, and one person to serve as secretary.

13 (b) A person selected to serve as chairman, vice-chairman,
14 or secretary serves in that capacity for a term of two years.

15 (c) The chairman shall preside over meetings of the board,
16 and in his absence, the vice-chairman shall preside.

17 (d) The chairman, vice-chairman, and secretary shall perform
18 the duties and may exercise the powers specifically given them by
19 this Act or by orders of the board.

20 SECTION 17. QUORUM. A majority of the members of the board
21 constitute a quorum for the transaction of business of the
22 district, but no official action of the board is valid without the
23 affirmative vote of a majority of the members of the board.

24 SECTION 18. OTHER OFFICERS. (a) The board shall appoint ^{5/6}
25 persons to serve as treasurer and attorney for the district.

26 (b) The persons appointed under this section are entitled to ^{2/3}
27 the compensation provided by the district's budget.

1 (c) The person appointed as treasurer shall execute a bond
2 in the amount determined by the board, payable to the district,
3 conditioned on the faithful performance of the treasurer's duties.
4 The district shall pay for the bond.

5 SECTION 19. GENERAL MANAGER. (a) The board may employ a
6 general manager to be the chief administrative officer of the
7 district and may delegate to him full authority to manage and
8 operate the affairs of the district subject only to orders of the
9 board.

10 (b) The general manager shall execute a bond in the amount
11 determined by the board, payable to the district, and conditioned
12 on the faithful performance of the general manager's duties. The
13 district shall pay for the bond.

14 (c) The general manager is entitled to receive the
15 compensation provided by the district's budget.

16 SECTION 20. ENGINEER. The board may appoint or contract
17 with a competent professional engineer for the district and may
18 determine the amount of compensation to be paid to the engineer.

19 SECTION 21. PERSONNEL. (a) The general manager or the
20 board may employ other persons necessary for the proper handling of
21 the business and operation of the district and may employ or
22 contract with expert and specialized personnel who are necessary to
23 carry out this Act. *6/7*

24 (b) The board shall determine the terms of employment and
25 the compensation to be paid to employees under this section.

26 (c) The general manager or a majority of the members of the
27 board may dismiss an employee of the district.

1 (d) The board shall require each employee or person under
2 contract to the district who collects, pays, or handles any funds
3 of the district to furnish a bond, payable to the district, for an
4 amount sufficient to protect the district from financial loss
5 resulting from actions of the employee or other person. Each bond
6 shall be conditioned on the faithful performance of the employee's
7 or person's duties and on accounting for all money and property of
8 the district in his hands. The district shall pay for each bond.

9 SECTION 22. OFFICE. The board shall maintain an office
10 within the boundaries of the district for conducting the business
11 of the district.

12 SECTION 23. MEETINGS OF BOARD. The board shall hold regular
13 meetings at the district's office at least once each month on a
14 date established by rule of the board.

15 SECTION 24. MINUTES AND RECORDS. (a) The board shall keep
16 a complete written account of all its meetings and other
17 proceedings and shall preserve its minutes, contracts, records,
18 plans, notices, accounts, receipts, and records of all kinds in a
19 secure manner at the district's office.

20 (b) Minutes, contracts, records, plans, notices, accounts,
21 receipts, and other records are the property of the district and
22 are subject to public inspection. 7/8

23 SECTION 25. CONTRACTS. The board may enter into contracts
24 as provided by Chapter 51, Water Code, and those contracts shall be
25 executed by the board in the name of the district.

26 SECTION 26. SUPERVISION OF DISTRICT. The district is
27 subject to the continuing right of supervision by the state, to be

1 exercised by the Texas Department of Water Resources under this Act
2 and the Water Code.

3 SECTION 27. SUITS; PAYMENT OF JUDGMENTS. (a) The district
4 may, through its board, sue and be sued in any court of this state
5 in the name of the district. Service of process in a suit may be
6 had by serving the general manager.

7 (b) The courts of this state shall take judicial notice of
8 the creation of the district.

9 (c) A court of this state that renders a money judgment
10 against the district may require the board to pay the judgment from
11 money in the district depository that is not dedicated to the
12 payment of any indebtedness of the district.

13 SECTION 28. SEAL. The board shall adopt a seal for the
14 district.

15 SECTION 29. PURPOSE OF DISTRICT. The district is created to
16 provide for the conservation, preservation, protection, recharge,
17 and prevention of waste and pollution of the underground and
18 surface water of the district consistent with the objectives of
19 Article XVI, Section 59, of the Texas Constitution, and Chapters 51
20 and 52, Water Code.

21 SECTION 30. RULES. (a) The board may adopt rules that are
22 necessary to carry out the purpose and powers under this Act and
23 may enforce those rules by injunction, mandatory injunction, or
24 other appropriate remedies in a court of competent jurisdiction.

25 (b) In addition to the rules adopted under Subsection (a) of
26 this section, the board may adopt and enforce rules as provided by
27 Sections 51.127^{through}-51.132, Water Code, *as amended.*

1 SECTION 31. EXERCISE OF POWERS AND DUTIES UNDER WATER CODE.

2 Except to the extent of any conflict with this Act or as
3 specifically limited by this Act, the district may exercise the
4 powers granted and shall exercise the duties under Subchapters D,
5 O, and P, Chapter 51, Water Code, and Subchapter D, Chapter 52,
6 Water Code, to carry out the purpose of the district and this Act.

7 SECTION 32. LIMITATION ON PERMIT AUTHORITY. If the district

8 regulates production of underground water by permit as authorized
9 by Chapter 52, Water Code, the board may not deny a permit to drill
10 a well to the owner of land, his heirs, assigns, and lessees on his
11 land and the right to produce water from that well under rules
12 adopted by the district.

13 SECTION 33. STUDIES AND SURVEYS. The board shall have

14 professional engineers make studies and surveys of the underground
15 and surface water supplies within the district and the facilities
16 available for use in the conservation, preservation, protection,
17 recharge, and prevention of waste and pollution of those water
18 resources. The professional engineers also shall determine the
19 quantities of both underground and surface water in the district.

20 SECTION 34. PLANS AND SPECIFICATIONS. The district shall

21 develop and implement comprehensive plans for the conservation,
22 preservation, protection, recharge, and prevention of waste and
23 pollution of underground and surface water within the district.
24 The plans shall include all works, facilities, and improvements
25 necessary to implement the plans and the specifications for those
26 works, facilities, and improvements.

27 SECTION 35. RESEARCH; INFORMATION. The district shall

1 engage in research projects and shall develop information to be
2 used by the district in preparing and implementing its plans and in
3 carrying out its powers and duties under this Act.

4 SECTION 36. CONTROL, STORAGE, AND PRESERVATION OF WATER FOR
5 CERTAIN PURPOSES. Subject to obtaining the permits required by
6 law, the district may control, store, and preserve the storm water
7 and floodwater in the district and the water of the rivers and
8 streams in the district for irrigation of arid land, prevention of
9 floods and flood damage in the district, and domestic,
10 agricultural, and industrial uses.

11 SECTION 37. RECLAMATION. The district may reclaim land
12 within the district and may construct necessary works, facilities,
13 and improvements to accomplish this purpose.

14 SECTION 38. SOIL CONSERVATION AND IMPROVEMENT; TERRACING.
15 The district may construct and maintain terraces and other
16 structures on land in the district and may engage in and promote
17 land treatment measures for soil conservation and improvement.

18 SECTION 39. ACQUISITION AND CONSTRUCTION OF WORKS,
19 FACILITIES, AND IMPROVEMENTS. (a) The district may construct or
20 acquire and improve and maintain works, facilities, and
21 improvements necessary to carry out the purpose, powers, and plans
22 of the district.

23 (b) The district shall construct and acquire works,
24 facilities, and improvements in the manner provided by Chapter 51,
25 Water Code, for water control and improvement districts.

26 SECTION 40. INPUT WELLS. The district may drill, equip,
27 operate, and maintain input wells, pumps, and other facilities to

1 carry out its purpose and powers under this Act.

2 SECTION 41. ACQUISITION OF PROPERTY. The district may
3 acquire by gift, grant, devise, lease, purchase, or condemnation
4 any land or other property necessary to carry out this Act.

5 SECTION 42. EMINENT DOMAIN. (a) The district may exercise
6 the power of eminent domain to acquire by condemnation a fee simple
7 or other interest in property located inside the district if the
8 property interest is necessary to the exercise of the authority
9 conferred by this chapter.

10 (b) The district must exercise the power of eminent domain
11 in the manner provided by Chapter 21, Property Code, but the
12 district is not required to deposit in the trial court money or a
13 bond as provided by ^{Subsection (a),} Section 21.021(a), Property Code.

14 (c) In a condemnation proceeding brought by a district, the
15 district is not required to pay in advance or give bond or other
16 security for costs in the trial court, to give bond for the
17 issuance of a temporary restraining order or a temporary
18 injunction, or to give bond for costs or supersedeas on an appeal ^{11/12}
19 or writ of error.

20 (d) In exercising the power of eminent domain, if the
21 district requires relocating, raising, lowering, rerouting,
22 changing the grade, or altering the construction of any railroad,
23 highway, pipeline, or electric transmission and electric
24 distribution, telegraph, or telephone lines, conduits, poles, or
25 facilities, the district must bear the actual cost of relocating,
26 raising, lowering, rerouting, changing the grade, or altering the
27 construction to provide comparable replacement without enhancement

1 of facilities after deducting the net salvage value derived for the
2 old facility.

3 SECTION 43. SALE AND DISPOSAL OF PROPERTY. Subject to this
4 Act and Chapters 51 and 52, Water Code, the district may sell or
5 otherwise dispose of land and other property of the district that
6 is not necessary to carry out the purpose or powers of the district
7 as determined by the board.

8 SECTION 44. PROHIBITED ACTIONS. (a) The district may not
9 enter into any contract or engage in any action to supply
10 underground or surface water inside or outside the district.

11 (b) The district may not issue bonds or levy a property tax
12 to secure the payment of bonds.

13 SECTION 45. PROTECTION OF WATER RIGHTS. The ownership and
14 rights of the owner of land, his lessees, and assigns in
15 underground and any surface water rights are recognized and this
16 Act does not deprive or divest the owner, his lessees, and assigns
17 of those ownership rights. ^{12/13}

18 SECTION 46. FISCAL YEAR. (a) The district shall be
19 operated on the basis of a fiscal year established by the board.

20 (b) The fiscal year may not be changed more than once in a
21 24-month period.

22 SECTION 47. ANNUAL AUDIT. Annually, the board shall have an
23 audit made of the financial condition of the district.

24 SECTION 48. RECORDS. The annual audit and other district
25 records must be open to inspection during regular business hours at
26 the principal office of the district.

27 SECTION 49. ANNUAL BUDGET. (a) The board shall prepare and

1 approve an annual budget.

2 (b) The budget shall contain a complete financial statement,
3 including a statement of:

4 (1) the outstanding obligations of the district;

5 (2) the amount of cash on hand to the credit of the
6 district;

7 (3) the amount of money received by the district from all
8 sources during the previous year;

9 (4) the amount of money available to the district from all
10 sources during the ensuing year;

11 (5) the amount of the balances expected at the end of the
12 year in which the budget is being prepared;

13 (6) the estimated amount of revenues and balances available
14 to cover the proposed budget; and

15 (7) the estimated maintenance and operating tax rate that
16 will be required. *13/14*

17 SECTION 50. NOTICE; HEARING; ADOPTION OF BUDGET. (a) The
18 board shall hold a public hearing on the annual budget.

19 (b) At least 10 days before the date set for the hearing,
20 notice of the hearing must be published in a newspaper or
21 newspapers that have general circulation within the boundaries of
22 the district.

23 (c) Any person residing within the boundaries of the
24 district is entitled to be present at and participate in the
25 hearing.

26 (d) At the conclusion of the hearing, the board shall act on
27 the budget and may make changes in the proposed budget that in its

1 judgment the interests of the taxpayers demand.

2 SECTION 51. AMENDING BUDGET. After the annual budget is
3 adopted, it may be amended on the board's approval.

4 SECTION 52. LIMITATION ON EXPENDITURES. Money may not be
5 spent for an expense not included in the annual budget or an
6 amendment to it.

7 SECTION 53. SWORN STATEMENT. As soon as practicable after
8 the close of the fiscal year, the general manager shall prepare for
9 the board a sworn statement of the amount of money that belongs to
10 the district and an account of the disbursements of that money.

11 SECTION 54. DEPOSITORY. (a) The board shall name one or
12 more banks to serve as depository for district funds.

13 (b) District funds shall be deposited as received with the
14 depository bank and shall remain on deposit. This subsection does
15 not limit the power of the board to place a portion of the *1/15*
16 district's funds on time deposit or to purchase certificates of
17 deposit.

18 (c) Before the district deposits funds in a bank in an
19 amount that exceeds the maximum amount secured by the Federal
20 Deposit Insurance Corporation, the bank must execute a bond or
21 provide other security in an amount sufficient to secure from loss
22 the district's funds that exceed the amount secured by the Federal
23 Deposit Insurance Corporation.

24 SECTION 55. INVESTMENTS. (a) Funds of the district may be
25 invested and reinvested by the board or its authorized
26 representative in direct or indirect obligations of the United
27 States, the state, or any county, city, school district, or other

1 political subdivision of the state.

2 (b) Funds of the district may be placed in certificates of
3 deposit of state or national banks, or state or federal savings and
4 loan associations, within the state provided that the funds are
5 secured in the manner required for the security of the funds of
6 counties of the state.

7 (c) The board ^{by} resolution ^{may} provide that an authorized
8 representative of the district may invest and reinvest the funds of
9 the authority and provide for money to be withdrawn from the
10 appropriate accounts of the district for investments on such terms
11 as the board considers advisable.

12 SECTION 56. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The
13 district's directors may pay all costs and expenses necessarily
14 incurred in the creation and organization of the district, legal ^{16/17}
15 fees, and other incidental expenses and may reimburse any person
16 for money advanced for these purposes.

17 (b) Payments may be made from money obtained from
18 maintenance taxes or other revenues of the district.

19 SECTION 57. BORROWING MONEY. The district may borrow money
20 for any purpose authorized under this Act or any combination of
21 those purposes.

22 SECTION 58. MAINTENANCE AND OPERATING TAX. (a) The
23 district may annually levy and collect a tax on property within the
24 boundaries of the district for use in maintaining facilities of the
25 district and for paying operating expenses of the district.

26 (b) A maintenance and operating tax may not be levied by the
27 district until it is approved by a majority vote of the individuals

1 qualified to vote in the area within the boundaries of the district
2 voting at an election called and held for that purpose.

3 (c) A maintenance and operating tax election may be held at
4 the same time and in conjunction with the election to create the
5 district. The procedure for calling and holding an election and
6 for canvassing returns of an election under this section is the
7 same as for the creation election under Section 6 of this Act.

8 SECTION 59. BOARD AUTHORITY. (a) The board may levy taxes
9 for the entire year in which the district is created.

10 (b) The board shall levy taxes on all property within the
11 boundaries of the district subject to district taxation.

12 SECTION 60. TAX RATE. In setting the tax rate, the board
13 shall take into consideration the income of the district from
14 sources other than taxation. On determination of the amount of tax
15 required to be levied, the board shall make the levy and certify it
16 to the tax assessor-collector.

17 SECTION 61. TAX APPRAISAL, ASSESSMENT, AND COLLECTION. (a)
18 The Tax Code governs the appraisal, assessment, and collection of
19 district taxes.

20 (b) The board may provide for the appointment of a tax
21 assessor-collector for the district or may contract for the
22 assessment and collection of taxes as provided by the Tax Code.

23 SECTION 62. EMERGENCY. The importance of this legislation
24 and the crowded condition of the calendars in both houses create an
25 emergency and an imperative public necessity that the
26 constitutional rule requiring bills to be read on three several
27 days in each house be suspended, and this rule is hereby suspended,

C.S.S.B. No. 206

1 and that this Act take effect and be in force from and after its
2 passage, and it is so enacted.

March 6 19 85 Engrossed

Ratsy Spaw
Engrossing Clerk

I certify that the attached is a true and correct
Copy of SB. 206, which was
received from the Senate on 3-7-85, and
referred to the Committee on Natural Res.

Boyle
Chief Clerk of the House

By: Sims
(Geistweidt)

S.B. No. 206

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation, administration, powers, duties,
3 operations, fiscal procedures, and taxing authority of the Irion
4 County Water Conservation District.

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

6 SECTION 1. CREATION OF DISTRICT. On approval at the
7 election required by Section 6 of this Act, the Irion County Water
8 Conservation District is created under Article XVI, Section 59, of
9 the Texas Constitution.

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11 Irion County Water Conservation District.

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13 that:

14 (1) the organization of the district is feasible and
15 practicable;

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17 district will be benefited by the creation of the district;

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20 welfare.

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22 territory located within Irion County.

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24 of this Act, the following persons are designated as temporary
25 directors of the district:

- 1 (1) Precinct 1--Loye Tankersley
- 2 (2) Precinct 2--Jim Westfall
- 3 (3) Precinct 3--Tim Bennie
- 4 (4) Precinct 4--Buck Whitley
- 5 (5) At Large--Jane D. Murray.

6 (b) If a vacancy occurs in the office of temporary director,
7 the remaining temporary directors shall select a person with the
8 same qualifications as provided by Section 9 of this Act to fill
9 the vacancy.

10 (c) The temporary directors shall select from their members
11 persons to serve as chairman, vice-chairman, and secretary.

12 SECTION 6. CREATION ELECTION. (a) Not later than the 30th
13 day after the effective date of this Act, the temporary directors
14 shall meet and shall call an election to be held not later than the
15 120th day after the effective date of this Act within the
16 boundaries of the proposed district to approve the creation of the
17 district.

18 (b) In the order calling the election, the temporary
19 directors shall designate election precincts and polling places for
20 the election.

21 (c) The temporary directors shall publish notice of the
22 election at least one time in a newspaper or newspapers that have
23 general circulation within the boundaries of the proposed district.
24 The notice must be published before the 30th day preceding the date
25 of the election.

26 (d) The ballot for the election must be printed to provide

1 for voting for or against the proposition: "The creation of the
2 Irion County Water Conservation District."

3 (e) Immediately after the election, the presiding judge of
4 each polling place shall deliver the returns of the election to the
5 temporary directors, and the temporary directors shall canvass the
6 returns and declare the result.

7 (f) If a majority of the votes cast at the election favor
8 the creation of the district, the temporary directors shall declare
9 the district created and shall enter the results in their minutes.
10 If a majority of the votes cast at the election are against the
11 creation of the district, the temporary directors shall declare the
12 district defeated and shall enter the results in their minutes.
13 The temporary directors shall file a copy of the election results
14 with the Texas Department of Water Resources.

15 (g) If the creation of the district is defeated, further
16 elections may be called by the temporary directors to create the
17 district, but another election to confirm creation of the district
18 may not be called and held before the first anniversary of the most
19 recent creation election. If the district is not created within
20 five years after the effective date of this Act, this Act expires.

21 SECTION 7. INITIAL DIRECTORS. (a) On approval of the
22 creation of the district under Section 6 of this Act, the temporary
23 directors become the permanent directors of the district and shall
24 serve on the board of directors for terms as provided by Subsection
25 (b) of this section.

26 (b) The persons serving as directors for Precincts 1 and 3

S.B. No. 206

1 shall serve as directors until the first regular meeting of the
2 board of directors in April following the first regular directors'
3 election. The persons serving as directors for Precincts 2 and 4
4 and the director serving at large shall serve until the first
5 regular meeting of the board of directors in April following the
6 second regular directors' election.

7 SECTION 8. COMPOSITION OF BOARD OF DIRECTORS. (a) The
8 board of directors of the district is composed of five members.

9 (b) One director shall be elected from the district at large
10 and one director shall be elected from each county commissioners
11 precinct.

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13 qualified for election as a director, a person must be a resident
14 of the district and must be at least 18 years of age.

15 (b) In addition to the requirements of Subsection (a) of
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17 commissioners precinct must be a resident of that precinct.

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19 following the creation election, an election shall be held on the
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21 number of directors to the board.

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3 filled by appointment of the remaining members of the board for the
4 unexpired term.

5 SECTION 14. OATH. Each director shall take the
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12 district office and shall organize by electing from the members of
13 the board one person to serve as chairman, one person to serve as
14 vice-chairman, and one person to serve as secretary.

15 (b) A person selected to serve as chairman, vice-chairman,
16 or secretary serves in that capacity for a term of two years.

17 (c) The chairman shall preside over meetings of the board,
18 and in his absence, the vice-chairman shall preside.

19 (d) The chairman, vice-chairman, and secretary shall perform
20 the duties and may exercise the powers specifically given them by
21 this Act or by orders of the board.

22 SECTION 17. QUORUM. A majority of the members of the board
23 constitute a quorum for the transaction of business of the
24 district, but no official action of the board is valid without the
25 affirmative vote of a majority of the members of the board.

26 SECTION 18. OTHER OFFICERS. (a) The board shall appoint

1 persons to serve as treasurer and attorney for the district.

2 (b) The persons appointed under this section are entitled to
3 the compensation provided by the district's budget.

4 (c) The person appointed as treasurer shall execute a bond
5 in the amount determined by the board, payable to the district,
6 conditioned on the faithful performance of the treasurer's duties.
7 The district shall pay for the bond.

8 SECTION 19. GENERAL MANAGER. (a) The board may employ a
9 general manager to be the chief administrative officer of the
10 district and may delegate to him full authority to manage and
11 operate the affairs of the district subject only to orders of the
12 board.

13 (b) The general manager shall execute a bond in the amount
14 determined by the board, payable to the district, and conditioned
15 on the faithful performance of the general manager's duties. The
16 district shall pay for the bond.

17 (c) The general manager is entitled to receive the
18 compensation provided by the district's budget.

19 SECTION 20. ENGINEER. The board may appoint or contract
20 with a competent professional engineer for the district and may
21 determine the amount of compensation to be paid to the engineer.

22 SECTION 21. PERSONNEL. (a) The general manager or the
23 board may employ other persons necessary for the proper handling of
24 the business and operation of the district and may employ or
25 contract with expert and specialized personnel who are necessary to
26 carry out this Act.

1 (b) The board shall determine the terms of employment and
2 the compensation to be paid to employees under this section.

3 (c) The general manager or a majority of the members of the
4 board may dismiss an employee of the district.

5 (d) The board shall require each employee or person under
6 contract to the district who collects, pays, or handles any funds
7 of the district to furnish a bond, payable to the district, for an
8 amount sufficient to protect the district from financial loss
9 resulting from actions of the employee or other person. Each bond
10 shall be conditioned on the faithful performance of the employee's
11 or person's duties and on accounting for all money and property of
12 the district in his hands. The district shall pay for each bond.

13 SECTION 22. OFFICE. The board shall maintain an office
14 within the boundaries of the district for conducting the business
15 of the district.

16 SECTION 23. MEETINGS OF BOARD. The board shall hold regular
17 meetings at the district's office at least once each month on a
18 date established by rule of the board.

19 SECTION 24. MINUTES AND RECORDS. (a) The board shall keep
20 a complete written account of all its meetings and other
21 proceedings and shall preserve its minutes, contracts, records,
22 plans, notices, accounts, receipts, and records of all kinds in a
23 secure manner at the district's office.

24 (b) Minutes, contracts, records, plans, notices, accounts,
25 receipts, and other records are the property of the district and
26 are subject to public inspection.

1 SECTION 25. CONTRACTS. The board may enter into contracts
2 as provided by Chapter 51, Water Code, and those contracts shall be
3 executed by the board in the name of the district.

4 SECTION 26. SUPERVISION OF DISTRICT. The district is
5 subject to the continuing right of supervision by the state, to be
6 exercised by the Texas Department of Water Resources under this Act
7 and the Water Code.

8 SECTION 27. SUITS; PAYMENT OF JUDGMENTS. (a) The district
9 may, through its board, sue and be sued in any court of this state
10 in the name of the district. Service of process in a suit may be
11 had by serving the general manager.

12 (b) The courts of this state shall take judicial notice of
13 the creation of the district.

14 (c) A court of this state that renders a money judgment
15 against the district may require the board to pay the judgment from
16 money in the district depository that is not dedicated to the
17 payment of any indebtedness of the district.

18 SECTION 28. SEAL. The board shall adopt a seal for the
19 district.

20 SECTION 29. PURPOSE OF DISTRICT. The district is created to
21 provide for the conservation, preservation, protection, recharge,
22 and prevention of waste and pollution of the underground and
23 surface water of the district consistent with the objectives of
24 Article XVI, Section 59, of the Texas Constitution, and Chapters 51
25 and 52, Water Code.

26 SECTION 30. RULES. (a) The board may adopt rules that are

1 necessary to carry out the purpose and powers under this Act and
2 may enforce those rules by injunction, mandatory injunction, or
3 other appropriate remedies in a court of competent jurisdiction.

4 (b) In addition to the rules adopted under Subsection (a) of
5 this section, the board may adopt and enforce rules as provided by
6 Sections 51.127 through 51.132, Water Code, as amended.

7 SECTION 31. EXERCISE OF POWERS AND DUTIES UNDER WATER CODE.

8 Except to the extent of any conflict with this Act or as
9 specifically limited by this Act, the district may exercise the
10 powers granted and shall exercise the duties under Subchapters D,
11 O, and P, Chapter 51, Water Code, and Subchapter D, Chapter 52,
12 Water Code, to carry out the purpose of the district and this Act.

13 SECTION 32. LIMITATION ON PERMIT AUTHORITY. If the district

14 regulates production of underground water by permit as authorized
15 by Chapter 52, Water Code, the board may not deny a permit to drill
16 a well to the owner of land, his heirs, assigns, and lessees on his
17 land and the right to produce water from that well under rules
18 adopted by the district.

19 SECTION 33. STUDIES AND SURVEYS. The board shall have

20 professional engineers make studies and surveys of the underground
21 and surface water supplies within the district and the facilities
22 available for use in the conservation, preservation, protection,
23 recharge, and prevention of waste and pollution of those water
24 resources. The professional engineers also shall determine the
25 quantities of both underground and surface water in the district.

26 SECTION 34. PLANS AND SPECIFICATIONS. The district shall

1 develop and implement comprehensive plans for the conservation,
 2 preservation, protection, recharge, and prevention of waste and
 3 pollution of underground and surface water within the district.
 4 The plans shall include all works, facilities, and improvements
 5 necessary to implement the plans and the specifications for those
 6 works, facilities, and improvements.

7 SECTION 35. RESEARCH; INFORMATION. The district shall
 8 engage in research projects and shall develop information to be
 9 used by the district in preparing and implementing its plans and in
 10 carrying out its powers and duties under this Act.

11 SECTION 36. CONTROL, STORAGE, AND PRESERVATION OF WATER FOR
 12 CERTAIN PURPOSES. Subject to obtaining the permits required by
 13 law, the district may control, store, and preserve the storm water
 14 and floodwater in the district and the water of the rivers and
 15 streams in the district for irrigation of arid land, prevention of
 16 floods and flood damage in the district, and domestic,
 17 agricultural, and industrial uses.

18 SECTION 37. RECLAMATION. The district may reclaim land
 19 within the district and may construct necessary works, facilities,
 20 and improvements to accomplish this purpose.

21 SECTION 38. SOIL CONSERVATION AND IMPROVEMENT; TERRACING.
 22 The district may construct and maintain terraces and other
 23 structures on land in the district and may engage in and promote
 24 land treatment measures for soil conservation and improvement.

25 SECTION 39. ACQUISITION AND CONSTRUCTION OF WORKS,
 26 FACILITIES, AND IMPROVEMENTS. (a) The district may construct or

1 acquire and improve and maintain works, facilities, and
2 improvements necessary to carry out the purpose, powers, and plans
3 of the district.

4 (b) The district shall construct and acquire works,
5 facilities, and improvements in the manner provided by Chapter 51,
6 Water Code, for water control and improvement districts.

7 SECTION 40. INPUT WELLS. The district may drill, equip,
8 operate, and maintain input wells, pumps, and other facilities to
9 carry out its purpose and powers under this Act.

10 SECTION 41. ACQUISITION OF PROPERTY. The district may
11 acquire by gift, grant, devise, lease, purchase, or condemnation
12 any land or other property necessary to carry out this Act.

13 SECTION 42. EMINENT DOMAIN. (a) The district may exercise
14 the power of eminent domain to acquire by condemnation a fee simple
15 or other interest in property located inside the district if the
16 property interest is necessary to the exercise of the authority
17 conferred by this chapter.

18 (b) The district must exercise the power of eminent domain
19 in the manner provided by Chapter 21, Property Code, but the
20 district is not required to deposit in the trial court money or a
21 bond as provided by Subsection (a), Section 21.021, Property Code.

22 (c) In a condemnation proceeding brought by a district, the
23 district is not required to pay in advance or give bond or other
24 security for costs in the trial court, to give bond for the
25 issuance of a temporary restraining order or a temporary
26 injunction, or to give bond for costs or supersedeas on an appeal

1 or writ of error.

2 (d) In exercising the power of eminent domain, if the
3 district requires relocating, raising, lowering, rerouting,
4 changing the grade, or altering the construction of any railroad,
5 highway, pipeline, or electric transmission and electric
6 distribution, telegraph, or telephone lines, conduits, poles, or
7 facilities, the district must bear the actual cost of relocating,
8 raising, lowering, rerouting, changing the grade, or altering the
9 construction to provide comparable replacement without enhancement
10 of facilities after deducting the net salvage value derived for the
11 old facility.

12 SECTION 43. SALE AND DISPOSAL OF PROPERTY. Subject to this
13 Act and Chapters 51 and 52, Water Code, the district may sell or
14 otherwise dispose of land and other property of the district that
15 is not necessary to carry out the purpose or powers of the district
16 as determined by the board.

17 SECTION 44. PROHIBITED ACTIONS. (a) The district may not
18 enter into any contract or engage in any action to supply
19 underground or surface water inside or outside the district.

20 (b) The district may not issue bonds or levy a property tax
21 to secure the payment of bonds.

22 SECTION 45. PROTECTION OF WATER RIGHTS. The ownership and
23 rights of the owner of land, his lessees, and assigns in
24 underground and any surface water rights are recognized and this
25 Act does not deprive or divest the owner, his lessees, and assigns
26 of those ownership rights.

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1 SECTION 46. FISCAL YEAR. (a) The district shall be
2 operated on the basis of a fiscal year established by the board.

3 (b) The fiscal year may not be changed more than once in a
4 24-month period.

5 SECTION 47. ANNUAL AUDIT. Annually, the board shall have an
6 audit made of the financial condition of the district.

7 SECTION 48. RECORDS. The annual audit and other district
8 records must be open to inspection during regular business hours at
9 the principal office of the district.

10 SECTION 49. ANNUAL BUDGET. (a) The board shall prepare and
11 approve an annual budget.

12 (b) The budget shall contain a complete financial statement,
13 including a statement of:

14 (1) the outstanding obligations of the district;

15 (2) the amount of cash on hand to the credit of the
16 district;

17 (3) the amount of money received by the district from all
18 sources during the previous year;

19 (4) the amount of money available to the district from all
20 sources during the ensuing year;

21 (5) the amount of the balances expected at the end of the
22 year in which the budget is being prepared;

23 (6) the estimated amount of revenues and balances available
24 to cover the proposed budget; and

25 (7) the estimated maintenance and operating tax rate that
26 will be required.

1 SECTION 50. NOTICE; HEARING; ADOPTION OF BUDGET. (a) The
2 board shall hold a public hearing on the annual budget.

3 (b) At least 10 days before the date set for the hearing,
4 notice of the hearing must be published in a newspaper or
5 newspapers that have general circulation within the boundaries of
6 the district.

7 (c) Any person residing within the boundaries of the
8 district is entitled to be present at and participate in the
9 hearing.

10 (d) At the conclusion of the hearing, the board shall act on
11 the budget and may make changes in the proposed budget that in its
12 judgment the interests of the taxpayers demand.

13 SECTION 51. AMENDING BUDGET. After the annual budget is
14 adopted, it may be amended on the board's approval.

15 SECTION 52. LIMITATION ON EXPENDITURES. Money may not be
16 spent for an expense not included in the annual budget or an
17 amendment to it.

18 SECTION 53. SWORN STATEMENT. As soon as practicable after
19 the close of the fiscal year, the general manager shall prepare for
20 the board a sworn statement of the amount of money that belongs to
21 the district and an account of the disbursements of that money.

22 SECTION 54. DEPOSITORY. (a) The board shall name one or
23 more banks to serve as depository for district funds.

24 (b) District funds shall be deposited as received with the
25 depository bank and shall remain on deposit. This subsection does
26 not limit the power of the board to place a portion of the

1 district's funds on time deposit or to purchase certificates of
2 deposit.

3 (c) Before the district deposits funds in a bank in an
4 amount that exceeds the maximum amount secured by the Federal
5 Deposit Insurance Corporation, the bank must execute a bond or
6 provide other security in an amount sufficient to secure from loss
7 the district's funds that exceed the amount secured by the Federal
8 Deposit Insurance Corporation.

9 SECTION 55. INVESTMENTS. (a) Funds of the district may be
10 invested and reinvested by the board or its authorized
11 representative in direct or indirect obligations of the United
12 States, the state, or any county, city, school district, or other
13 political subdivision of the state.

14 (b) Funds of the district may be placed in certificates of
15 deposit of state or national banks, or state or federal savings and
16 loan associations, within the state provided that the funds are
17 secured in the manner required for the security of the funds of
18 counties of the state.

19 (c) The board by resolution may provide that an authorized
20 representative of the district may invest and reinvest the funds of
21 the authority and provide for money to be withdrawn from the
22 appropriate accounts of the district for investments on such terms
23 as the board considers advisable.

24 SECTION 56. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The
25 district's directors may pay all costs and expenses necessarily
26 incurred in the creation and organization of the district, legal

1 fees, and other incidental expenses and may reimburse any person
2 for money advanced for these purposes.

3 (b) Payments may be made from money obtained from
4 maintenance taxes or other revenues of the district.

5 SECTION 57. BORROWING MONEY. The district may borrow money
6 for any purpose authorized under this Act or any combination of
7 those purposes.

8 SECTION 58. MAINTENANCE AND OPERATING TAX. (a) The
9 district may annually levy and collect a tax on property within the
10 boundaries of the district for use in maintaining facilities of the
11 district and for paying operating expenses of the district.

12 (b) A maintenance and operating tax may not be levied by the
13 district until it is approved by a majority vote of the individuals
14 qualified to vote in the area within the boundaries of the district
15 voting at an election called and held for that purpose.

16 (c) A maintenance and operating tax election may be held at
17 the same time and in conjunction with the election to create the
18 district. The procedure for calling and holding an election and
19 for canvassing returns of an election under this section is the
20 same as for the creation election under Section 6 of this Act.

21 SECTION 59. BOARD AUTHORITY. (a) The board may levy taxes
22 for the entire year in which the district is created.

23 (b) The board shall levy taxes on all property within the
24 boundaries of the district subject to district taxation.

25 SECTION 60. TAX RATE. In setting the tax rate, the board
26 shall take into consideration the income of the district from

1 sources other than taxation. On determination of the amount of tax
2 required to be levied, the board shall make the levy and certify it
3 to the tax assessor-collector.

4 SECTION 61. TAX APPRAISAL, ASSESSMENT, AND COLLECTION. (a)
5 The Tax Code governs the appraisal, assessment, and collection of
6 district taxes.

7 (b) The board may provide for the appointment of a tax
8 assessor-collector for the district or may contract for the
9 assessment and collection of taxes as provided by the Tax Code.

10 SECTION 62. EMERGENCY. The importance of this legislation
11 and the crowded condition of the calendars in both houses create an
12 emergency and an imperative public necessity that the
13 constitutional rule requiring bills to be read on three several
14 days in each house be suspended, and this rule is hereby suspended,
15 and that this Act take effect and be in force from and after its
16 passage, and it is so enacted.

HOUSE COMMITTEE REPORT

1st Printing

By: Sims
(Geistweidt)

S.B. No. 206

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation, administration, powers, duties,
3 operations, fiscal procedures, and taxing authority of the Irion
4 County Water Conservation District.

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

6 SECTION 1. CREATION OF DISTRICT. On approval at the
7 election required by Section 6 of this Act, the Irion County Water
8 Conservation District is created under Article XVI, Section 59, of
9 the Texas Constitution.

10 SECTION 2. DEFINITION. In this Act, "district" means the
11 Irion County Water Conservation District.

12 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
13 that:

14 (1) the organization of the district is feasible and
15 practicable;

16 (2) the land to be included in and the residents of the
17 district will be benefited by the creation of the district;

18 (3) there is a public necessity for the district; and

19 (4) the creation of the district will further the public
20 welfare.

21 SECTION 4. BOUNDARIES. The district is composed of all the
22 territory located within Irion County.

23 SECTION 5. TEMPORARY DIRECTORS. (a) On the effective date
24 of this Act, the following persons are designated as temporary
25 directors of the district:

- 1 (1) Precinct 1--Loye Tankersley
- 2 (2) Precinct 2--Jim Westfall
- 3 (3) Precinct 3--Tim Bennie
- 4 (4) Precinct 4--Buck Whitley
- 5 (5) At Large--Jane D. Murray.

6 (b) If a vacancy occurs in the office of temporary director,
7 the remaining temporary directors shall select a person with the
8 same qualifications as provided by Section 9 of this Act to fill
9 the vacancy.

10 (c) The temporary directors shall select from their members
11 persons to serve as chairman, vice-chairman, and secretary.

12 SECTION 6. CREATION ELECTION. (a) Not later than the 30th
13 day after the effective date of this Act, the temporary directors
14 shall meet and shall call an election to be held not later than the
15 120th day after the effective date of this Act within the
16 boundaries of the proposed district to approve the creation of the
17 district.

18 (b) In the order calling the election, the temporary
19 directors shall designate election precincts and polling places for
20 the election.

21 (c) The temporary directors shall publish notice of the
22 election at least one time in a newspaper or newspapers that have
23 general circulation within the boundaries of the proposed district.
24 The notice must be published before the 30th day preceding the date
25 of the election.

26 (d) The ballot for the election must be printed to provide

1 for voting for or against the proposition: "The creation of the
2 Irion County Water Conservation District."

3 (e) Immediately after the election, the presiding judge of
4 each polling place shall deliver the returns of the election to the
5 temporary directors, and the temporary directors shall canvass the
6 returns and declare the result.

7 (f) If a majority of the votes cast at the election favor
8 the creation of the district, the temporary directors shall declare
9 the district created and shall enter the results in their minutes.
10 If a majority of the votes cast at the election are against the
11 creation of the district, the temporary directors shall declare the
12 district defeated and shall enter the results in their minutes.
13 The temporary directors shall file a copy of the election results
14 with the Texas Department of Water Resources.

15 (g) If the creation of the district is defeated, further
16 elections may be called by the temporary directors to create the
17 district, but another election to confirm creation of the district
18 may not be called and held before the first anniversary of the most
19 recent creation election. If the district is not created within
20 five years after the effective date of this Act, this Act expires.

21 SECTION 7. INITIAL DIRECTORS. (a) On approval of the
22 creation of the district under Section 6 of this Act, the temporary
23 directors become the permanent directors of the district and shall
24 serve on the board of directors for terms as provided by Subsection
25 (b) of this section.

26 (b) The persons serving as directors for Precincts 1 and 3

1 shall serve as directors until the first regular meeting of the
2 board of directors in April following the first regular directors'
3 election. The persons serving as directors for Precincts 2 and 4
4 and the director serving at large shall serve until the first
5 regular meeting of the board of directors in April following the
6 second regular directors' election.

7 SECTION 8. COMPOSITION OF BOARD OF DIRECTORS. (a) The
8 board of directors of the district is composed of five members.

9 (b) One director shall be elected from the district at large
10 and one director shall be elected from each county commissioners
11 precinct.

12 SECTION 9. QUALIFICATIONS OF BOARD MEMBERS. (a) To be
13 qualified for election as a director, a person must be a resident
14 of the district and must be at least 18 years of age.

15 (b) In addition to the requirements of Subsection (a) of
16 this section, a person who is a director from a county
17 commissioners precinct must be a resident of that precinct.

18 SECTION 10. ELECTION OF DIRECTORS. Beginning in the year
19 following the creation election, an election shall be held on the
20 first Saturday in April of each year to elect the appropriate
21 number of directors to the board.

22 SECTION 11. TERM OF OFFICE. Except for the initial
23 directors of the district, directors shall serve for terms of two
24 years.

25 SECTION 12. BEGINNING OF DIRECTOR'S TERM. A director takes
26 office at the first regular meeting of the board in April following

1 election to the board.

2 SECTION 13. VACANCY ON BOARD. A vacancy on the board is
3 filled by appointment of the remaining members of the board for the
4 unexpired term.

5 SECTION 14. OATH. Each director shall take the
6 constitutional oath of office required of state officers.

7 SECTION 15. COMPENSATION. Each director is entitled to
8 receive for his services not more than \$25 a day for each day
9 actually engaged in duties for the district.

10 SECTION 16. ORGANIZATION OF BOARD. (a) After each
11 directors' election, the board shall hold a regular meeting at the
12 district office and shall organize by electing from the members of
13 the board one person to serve as chairman, one person to serve as
14 vice-chairman, and one person to serve as secretary.

15 (b) A person selected to serve as chairman, vice-chairman,
16 or secretary serves in that capacity for a term of two years.

17 (c) The chairman shall preside over meetings of the board,
18 and in his absence, the vice-chairman shall preside.

19 (d) The chairman, vice-chairman, and secretary shall perform
20 the duties and may exercise the powers specifically given them by
21 this Act or by orders of the board.

22 SECTION 17. QUORUM. A majority of the members of the board
23 constitute a quorum for the transaction of business of the
24 district, but no official action of the board is valid without the
25 affirmative vote of a majority of the members of the board.

26 SECTION 18. OTHER OFFICERS. (a) The board shall appoint

1 persons to serve as treasurer and attorney for the district.

2 (b) The persons appointed under this section are entitled to
3 the compensation provided by the district's budget.

4 (c) The person appointed as treasurer shall execute a bond
5 in the amount determined by the board, payable to the district,
6 conditioned on the faithful performance of the treasurer's duties.
7 The district shall pay for the bond.

8 SECTION 19. GENERAL MANAGER. (a) The board may employ a
9 general manager to be the chief administrative officer of the
10 district and may delegate to him full authority to manage and
11 operate the affairs of the district subject only to orders of the
12 board.

13 (b) The general manager shall execute a bond in the amount
14 determined by the board, payable to the district, and conditioned
15 on the faithful performance of the general manager's duties. The
16 district shall pay for the bond.

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18 compensation provided by the district's budget.

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20 with a competent professional engineer for the district and may
21 determine the amount of compensation to be paid to the engineer.

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23 board may employ other persons necessary for the proper handling of
24 the business and operation of the district and may employ or
25 contract with expert and specialized personnel who are necessary to
26 carry out this Act.

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2 the compensation to be paid to employees under this section.

3 (c) The general manager or a majority of the members of the
4 board may dismiss an employee of the district.

5 (d) The board shall require each employee or person under
6 contract to the district who collects, pays, or handles any funds
7 of the district to furnish a bond, payable to the district, for an
8 amount sufficient to protect the district from financial loss
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10 shall be conditioned on the faithful performance of the employee's
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21 proceedings and shall preserve its minutes, contracts, records,
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2 as provided by Chapter 51, Water Code, and those contracts shall be
3 executed by the board in the name of the district.

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5 subject to the continuing right of supervision by the state, to be
6 exercised by the Texas Department of Water Resources under this Act
7 and the Water Code.

8 SECTION 27. SUITS; PAYMENT OF JUDGMENTS. (a) The district
9 may, through its board, sue and be sued in any court of this state
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11 had by serving the general manager.

12 (b) The courts of this state shall take judicial notice of
13 the creation of the district.

14 (c) A court of this state that renders a money judgment
15 against the district may require the board to pay the judgment from
16 money in the district depository that is not dedicated to the
17 payment of any indebtedness of the district.

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2 may enforce those rules by injunction, mandatory injunction, or
3 other appropriate remedies in a court of competent jurisdiction.

4 (b) In addition to the rules adopted under Subsection (a) of
5 this section, the board may adopt and enforce rules as provided by
6 Sections 51.127 through 51.132, Water Code, as amended.

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8 Except to the extent of any conflict with this Act or as
9 specifically limited by this Act, the district may exercise the
10 powers granted and shall exercise the duties under Subchapters D,
11 O, and P, Chapter 51, Water Code, and Subchapter D, Chapter 52,
12 Water Code, to carry out the purpose of the district and this Act.

13 SECTION 32. LIMITATION ON PERMIT AUTHORITY. If the district

14 regulates production of underground water by permit as authorized
15 by Chapter 52, Water Code, the board may not deny a permit to drill
16 a well to the owner of land, his heirs, assigns, and lessees on his
17 land and the right to produce water from that well under rules
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21 and surface water supplies within the district and the facilities
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1 develop and implement comprehensive plans for the conservation,
2 preservation, protection, recharge, and prevention of waste and
3 pollution of underground and surface water within the district.
4 The plans shall include all works, facilities, and improvements
5 necessary to implement the plans and the specifications for those
6 works, facilities, and improvements.

7 SECTION 35. RESEARCH; INFORMATION. The district shall
8 engage in research projects and shall develop information to be
9 used by the district in preparing and implementing its plans and in
10 carrying out its powers and duties under this Act.

11 SECTION 36. CONTROL, STORAGE, AND PRESERVATION OF WATER FOR
12 CERTAIN PURPOSES. Subject to obtaining the permits required by
13 law, the district may control, store, and preserve the storm water
14 and floodwater in the district and the water of the rivers and
15 streams in the district for irrigation of arid land, prevention of
16 floods and flood damage in the district, and domestic,
17 agricultural, and industrial uses.

18 SECTION 37. RECLAMATION. The district may reclaim land
19 within the district and may construct necessary works, facilities,
20 and improvements to accomplish this purpose.

21 SECTION 38. SOIL CONSERVATION AND IMPROVEMENT; TERRACING.
22 The district may construct and maintain terraces and other
23 structures on land in the district and may engage in and promote
24 land treatment measures for soil conservation and improvement.

25 SECTION 39. ACQUISITION AND CONSTRUCTION OF WORKS,
26 FACILITIES, AND IMPROVEMENTS. (a) The district may construct or

1 acquire and improve and maintain works, facilities, and
2 improvements necessary to carry out the purpose, powers, and plans
3 of the district.

4 (b) The district shall construct and acquire works,
5 facilities, and improvements in the manner provided by Chapter 51,
6 Water Code, for water control and improvement districts.

7 SECTION 40. INPUT WELLS. The district may drill, equip,
8 operate, and maintain input wells, pumps, and other facilities to
9 carry out its purpose and powers under this Act.

10 SECTION 41. ACQUISITION OF PROPERTY. The district may
11 acquire by gift, grant, devise, lease, purchase, or condemnation
12 any land or other property necessary to carry out this Act.

13 SECTION 42. EMINENT DOMAIN. (a) The district may exercise
14 the power of eminent domain to acquire by condemnation a fee simple
15 or other interest in property located inside the district if the
16 property interest is necessary to the exercise of the authority
17 conferred by this chapter.

18 (b) The district must exercise the power of eminent domain
19 in the manner provided by Chapter 21, Property Code, but the
20 district is not required to deposit in the trial court money or a
21 bond as provided by Subsection (a), Section 21.021, Property Code.

22 (c) In a condemnation proceeding brought by a district, the
23 district is not required to pay in advance or give bond or other
24 security for costs in the trial court, to give bond for the
25 issuance of a temporary restraining order or a temporary
26 injunction, or to give bond for costs or supersedeas on an appeal

1 or writ of error.

2 (d) In exercising the power of eminent domain, if the
3 district requires relocating, raising, lowering, rerouting,
4 changing the grade, or altering the construction of any railroad,
5 highway, pipeline, or electric transmission and electric
6 distribution, telegraph, or telephone lines, conduits, poles, or
7 facilities, the district must bear the actual cost of relocating,
8 raising, lowering, rerouting, changing the grade, or altering the
9 construction to provide comparable replacement without enhancement
10 of facilities after deducting the net salvage value derived for the
11 old facility.

12 SECTION 43. SALE AND DISPOSAL OF PROPERTY. Subject to this
13 Act and Chapters 51 and 52, Water Code, the district may sell or
14 otherwise dispose of land and other property of the district that
15 is not necessary to carry out the purpose or powers of the district
16 as determined by the board.

17 SECTION 44. PROHIBITED ACTIONS. (a) The district may not
18 enter into any contract or engage in any action to supply
19 underground or surface water inside or outside the district.

20 (b) The district may not issue bonds or levy a property tax
21 to secure the payment of bonds.

22 SECTION 45. PROTECTION OF WATER RIGHTS. The ownership and
23 rights of the owner of land, his lessees, and assigns in
24 underground and any surface water rights are recognized and this
25 Act does not deprive or divest the owner, his lessees, and assigns
26 of those ownership rights.

1 SECTION 46. FISCAL YEAR. (a) The district shall be
2 operated on the basis of a fiscal year established by the board.

3 (b) The fiscal year may not be changed more than once in a
4 24-month period.

5 SECTION 47. ANNUAL AUDIT. Annually, the board shall have an
6 audit made of the financial condition of the district.

7 SECTION 48. RECORDS. The annual audit and other district
8 records must be open to inspection during regular business hours at
9 the principal office of the district.

10 SECTION 49. ANNUAL BUDGET. (a) The board shall prepare and
11 approve an annual budget.

12 (b) The budget shall contain a complete financial statement,
13 including a statement of:

14 (1) the outstanding obligations of the district;

15 (2) the amount of cash on hand to the credit of the
16 district;

17 (3) the amount of money received by the district from all
18 sources during the previous year;

19 (4) the amount of money available to the district from all
20 sources during the ensuing year;

21 (5) the amount of the balances expected at the end of the
22 year in which the budget is being prepared;

23 (6) the estimated amount of revenues and balances available
24 to cover the proposed budget; and

25 (7) the estimated maintenance and operating tax rate that
26 will be required.

1 SECTION 50. NOTICE; HEARING; ADOPTION OF BUDGET. (a) The
2 board shall hold a public hearing on the annual budget.

3 (b) At least 10 days before the date set for the hearing,
4 notice of the hearing must be published in a newspaper or
5 newspapers that have general circulation within the boundaries of
6 the district.

7 (c) Any person residing within the boundaries of the
8 district is entitled to be present at and participate in the
9 hearing.

10 (d) At the conclusion of the hearing, the board shall act on
11 the budget and may make changes in the proposed budget that in its
12 judgment the interests of the taxpayers demand.

13 SECTION 51. AMENDING BUDGET. After the annual budget is
14 adopted, it may be amended on the board's approval.

15 SECTION 52. LIMITATION ON EXPENDITURES. Money may not be
16 spent for an expense not included in the annual budget or an
17 amendment to it.

18 SECTION 53. SWORN STATEMENT. As soon as practicable after
19 the close of the fiscal year, the general manager shall prepare for
20 the board a sworn statement of the amount of money that belongs to
21 the district and an account of the disbursements of that money.

22 SECTION 54. DEPOSITORY. (a) The board shall name one or
23 more banks to serve as depository for district funds.

24 (b) District funds shall be deposited as received with the
25 depository bank and shall remain on deposit. This subsection does
26 not limit the power of the board to place a portion of the

1 district's funds on time deposit or to purchase certificates of
2 deposit.

3 (c) Before the district deposits funds in a bank in an
4 amount that exceeds the maximum amount secured by the Federal
5 Deposit Insurance Corporation, the bank must execute a bond or
6 provide other security in an amount sufficient to secure from loss
7 the district's funds that exceed the amount secured by the Federal
8 Deposit Insurance Corporation.

9 SECTION 55. INVESTMENTS. (a) Funds of the district may be
10 invested and reinvested by the board or its authorized
11 representative in direct or indirect obligations of the United
12 States, the state, or any county, city, school district, or other
13 political subdivision of the state.

14 (b) Funds of the district may be placed in certificates of
15 deposit of state or national banks, or state or federal savings and
16 loan associations, within the state provided that the funds are
17 secured in the manner required for the security of the funds of
18 counties of the state.

19 (c) The board by resolution may provide that an authorized
20 representative of the district may invest and reinvest the funds of
21 the authority and provide for money to be withdrawn from the
22 appropriate accounts of the district for investments on such terms
23 as the board considers advisable.

24 SECTION 56. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The
25 district's directors may pay all costs and expenses necessarily
26 incurred in the creation and organization of the district, legal

1 fees, and other incidental expenses and may reimburse any person
2 for money advanced for these purposes.

3 (b) Payments may be made from money obtained from
4 maintenance taxes or other revenues of the district.

5 SECTION 57. BORROWING MONEY. The district may borrow money
6 for any purpose authorized under this Act or any combination of
7 those purposes.

8 SECTION 58. MAINTENANCE AND OPERATING TAX. (a) The
9 district may annually levy and collect a tax on property within the
10 boundaries of the district for use in maintaining facilities of the
11 district and for paying operating expenses of the district.

12 (b) A maintenance and operating tax may not be levied by the
13 district until it is approved by a majority vote of the individuals
14 qualified to vote in the area within the boundaries of the district
15 voting at an election called and held for that purpose.

16 (c) A maintenance and operating tax election may be held at
17 the same time and in conjunction with the election to create the
18 district. The procedure for calling and holding an election and
19 for canvassing returns of an election under this section is the
20 same as for the creation election under Section 6 of this Act.

21 SECTION 59. BOARD AUTHORITY. (a) The board may levy taxes
22 for the entire year in which the district is created.

23 (b) The board shall levy taxes on all property within the
24 boundaries of the district subject to district taxation.

25 SECTION 60. TAX RATE. In setting the tax rate, the board
26 shall take into consideration the income of the district from

1 sources other than taxation. On determination of the amount of tax
2 required to be levied, the board shall make the levy and certify it
3 to the tax assessor-collector.

4 SECTION 61. TAX APPRAISAL, ASSESSMENT, AND COLLECTION. (a)
5 The Tax Code governs the appraisal, assessment, and collection of
6 district taxes.

7 (b) The board may provide for the appointment of a tax
8 assessor-collector for the district or may contract for the
9 assessment and collection of taxes as provided by the Tax Code.

10 SECTION 62. EMERGENCY. The importance of this legislation
11 and the crowded condition of the calendars in both houses create an
12 emergency and an imperative public necessity that the
13 constitutional rule requiring bills to be read on three several
14 days in each house be suspended, and this rule is hereby suspended,
15 and that this Act take effect and be in force from and after its
16 passage, and it is so enacted.

BILL ANALYSIS

S. B. 206

By: Sims

BACKGROUND: Irion County is located just west of San Angelo in the western part of the Colorado River Basin. Because the county only receives about 16 inches of rainfall annually, it is heavily dependent on the waters of the Edwards-Trinity aquifer which it overlies. The lower part of the aquifer is 100 feet thick, and the upper part of the aquifer is about 500 feet thick. Water in the aquifer is fresh, and high capacity wells yield about 250 gallons per minute.

However, because oil and gas corporations have some interest in the primarily rural county, saltwater injection wells have been drilled through the aquifer which would threaten the underground water supply.

The people of Irion county are concerned about possible pollution from the saltwater injection wells. The major problems with the wells is that leaks could occur through the casing and during plugging of the wells. Cracks and fissures underground provide pathways for saltwater to escape to fresh water. The liability for the company that drills the wells has been eliminated, but the threat to the public remains.

Additionally, SB 206 functions through the creations of a surface and underground conservation district. Legislation currently under consideration by the legislature would greatly increase the power of the state to manage ground water resources. The citizens of Irion County feel that a locally controlled district would best represent the county's interest.

PURPOSE: SB 206 would create a conservation district to manage the surface and ground water resources in Irion County

Section-by Section Analysis

SECTION 1. Creates the Irion County Water Conservation District on approval at the election.

SECTION 2. Defines "district".

SECTION 3. Lists legislative findings:
(1) organization of district is feasible and practical
(2) the land and residents will benefit by the creation of the district
(3) public necessity exists for the district
(4) the district will further public welfare

SECTION 4. Delineates the boundaries of district.

TEMPORARY DIRECTORS

SECTION 5. (a) Designates the following as temporary directors:
(1) Precinct 1--Loye Tankersley
(2) Precinct 2--Jim Westfall
(3) Precinct 3--Tim Bennie
(4) Precinct 4--Buck Whitley
(5) At Large--Jane D. Murray
(b) Requires the temporary directors to fill a vacancy by selecting a person with the required qualifications.
(c) Charges the temporary directors to select from their members a chairman, vice-chairman and secretary.

SECTION 6 (a) Requires the temporary directors to meet 30 days after the effective date in order to call an election to be held not later than 120 days after the effective date.
(c) Requires the temporary directors to designate election precincts and polling places.
(c) Requires the temporary directors to publish at least one notice of election 30 days before the election.
(d) The election ballot must provide for voting for or against the proposition.
(e) Charges the presiding judge of each polling place to deliver the election results to the temporary directors for disclosure.
(f) Requires the temporary directors to declare a district created if votes are favorable and to declare a district defeated if majority of votes are against. Also they must file copy of election results with Texas Department of Water Resources.
(g) Allows temporary directors to hold further elections, but not an election to confirm the creation of a district. Sets the expiration date of Act at 5 years after effective date if no district is created.

SECTION 7. INITIAL DIRECTORS
(a) Designates the temporary directors as initial directors upon approval of district.
(b) Sets the term expiration dates for Precincts 1 and 3 on the first board meeting of April after first regular directors' election, and Precincts 2 and 4 and director-at-large on the first board meeting after the second regular directors' election.

SECTION 8
(a) Limits the composition of board to five members.
(b) Board must compose of one director at large and one director from each county commissioner's court.

SECTION 9
(a) Requires a director to be a resident of the district and at least 18 years of age.
(b) Requires precinct director to be a resident of county commissioners district.

SECTION 10. Elections must be held every year on the first Saturday in April.

SECTION 11. Sets the terms at two years.

SECTION 12. The terms of the directors begin on the first Board meeting in April following the election.

SECTION 13. Board members shall fill a vacancy by appointment.

SECTION 14. Requires that each director take the constitutional oath of office.

SECTION 15. Entitles the directors to \$25 a day for service.

SECTION 16. (a) A chairman, vice-chairman, and secretary will be elected from among the directors.

(b) Sets 2 year terms for chairman, vice-chairman, and secretary.

(c) Charges the chairman to preside over meetings and vice-chairman to preside in chairman's absence.

(d) Requires the chairman, vice-chairman and secretary to perform the duties and powers under this Act.

SECTION 17. Constitutes the quorum for business transactions at a majority of members, but no official action is valid without affirmative vote of a majority of board members.

SECTION 18. (a) Requires the board to appoint a treasurer and attorney.

(b) Entitles persons appointed under this section to compensation.

(c) Charges the treasurer to execute a bond.

SECTION 19. (a) Permits the Board to employ a general manager.

(b) Charges the general manager to execute a bond according to Board's specifications.

(c) Entitles the general manager to receive compensation.

SECTION 20. Permits the board to appoint or contract an engineer.

SECTION 21. (a) Permits the general manager or the board to employ other persons or specialized personnel who are necessary to carry out the purpose of this Act.

(b) Requires the board to set the terms of employment and the amount of compensation.

(c) Permits the general manager or board to dismiss district employees.

(d) Requires employees handling district funds to furnish a bond for the protection from financial loss. The district shall pay for the bond.

SECTION 22. Requires the board to maintain an office within the district.

SECTION 23. Requires the Board to hold meetings at least once a month at the district office.

SECTION 24. (a) Requires the Board to keep an account of all meetings and records at the district office.

(b) Subjects the minutes and records to public inspection.

SECTION 25. Permits the Board to enter contracts as provided by Chapter 51 of Water Code.

SECTION 26. Subjects the district to supervision by the Texas Department of Water Resources.

SECTION 27. (a) permits the district to sue or be sued in any court of this state.

(b) Requires state courts to take judicial notice of the creation of the district.

(c) Permits a state court to require the district to pay a money judgement from the district's depository.

SECTION 28. Requires the district to adopt a seal.

SECTION 29. Charges the district to provide for the conservation, preservation, protection, recharge, and prevention of waste and pollution of the underground and surface water of the district consistent with the objectives of Art. XVI, Sec. 59 of the Texas Constitution, and Chapters 51 and 52 of Water Code.

SECTION 30. (a) Permits the Board to adopt and enforce rules needed to carry out this Act.

(b) Permits the Board to adopt and enforce rules as provided by Sections 15.127 - 15.132 of Water Code.

SECTION 31. Permits the district to exercise the powers and duties under Subchapters D, G, and P, Chapter 51 and Subchapter D, Chapter 52 of the Water Code.

SECTION 32. Limits the district's well permit authority by not allowing them to deny a permit to drill a well or right to produce water to the owner of land, his heirs, assigns and leases.

SECTION 33. Requires the Board to employ a professional engineer to make studies and surveys of the underground and surface water supplies and to determine the amount of both underground and surface water in the district.

SECTION 34. Requires the district to develop and implement plans and specifications to carry out the purpose of this Act.

SECTION 35. Requires the district to engage in research and develop information to aid in the implementation of plans under this Act.

SECTION 36. Permits the district to conduct, store, and preserve water for purposes such as irrigation, flood control; and domestic, agricultural, and industrial uses.

SECTION 37. Permits the district to reclaim land within the district.

SECTION 38. Permits the district to engage in terracing and land treatment for soil conservation and improvement.

SECTION 39. (a) Permits the district to acquire and construct works, facilities, and improvements.

(b) Requires the district to act in accordance with Chapter 51 of Water Code.

SECTION 40. Permits the district to drill, equip, operate, and maintain input wells.

SECTION 41. Permits the district to acquire property by gift, grant, devise, lease, purchase, or condemnation.

SECTION 42. (a) Grants the district the power of eminent domain.

(b) Power of eminent domain must be exercised according to Chapter 21 of the Property Code, but the district is not required to deposit money or a bond in the trial court.

(c) Waives the requirement of giving bond for trial court costs, issuance of a temporary restraining order or injunction, and an appeal or writ of error.

(d) Requires the district to bear the actual cost of exercising the power of eminent domain.

SECTION 43. Subject to this Act and Chapters 51 and 52 of the Water Code, the district may sell or dispose of property not necessary to carry out this Act.

SECTION 44. (a) Prohibits the district from supplying underground or surface water inside or outside the district.

(b) Prohibits the issuance of bonds or the levy of property tax to secure the payment of bonds.

SECTION 45. Protects the water rights of the owner of the land.

SECTION 46. (a) Requires the district to operate on a fiscal year basis.

(b) The fiscal year may not be changed more than once in a 24-month period.

SECTION 47. Requires the district to perform an annual audit.

SECTION 48. Requires that the audits and records be open to public inspection.

SECTION 49. (a) Requires the Board to prepare and approve an annual budget

(b) The budget shall contain the following:

(1) outstanding obligations

(2) amount of cash on hand

(3) amount of money received by the district from all sources during the previous year

- (4) amount of available money
- (5) expected ending balances
- (6) estimated revenues and balances
- (7) estimated maintenance and operating tax rate

SECTION 50. (a) Requires the Board to hold a public hearing on annual budget.
(b) Notice of hearing must be published 10 days before hearing.
(c) Entitles district residents the right to participate in hearings.
(d) Requires the Board to modify the proposed budget so that it reflects the taxpayers interests.

SECTION 52. Limits expenditures to items only included in the annual budget.

SECTION 53. Requires the general manager to prepare a sworn statement of the district's amount of money and an account of disbursements.

SECTION 54. (a) Requires the Board to name which banks serve as depositories.
(b) Requires that district funds be deposited in banks. Allows the Board to place portion of funds on time deposit or purchase certificates of deposit.
(c) Requires the bank depository to execute a bond or provide security to secure funds that exceed the maximum amount secured by the F.D.I.C.

SECTION 55. (a) Permits the Board to invest or reinvest district funds in obligations of the U.S., the state, or any county, city, school district, or other political subdivisions of the state.
(b) Permits district funds to be placed in certificates of deposit.
(c) Permits the Board, by resolution, to invest or reinvest district funds through an authorized representative.

SECTION 56. (a) Permits the Board to pay all organizational expenses.
(b) Permits payments to be obtained from maintenance taxes or other revenues.

SECTION 57. Permits the district to borrow money to carry out the purposes of this Act.

SECTION 58. (a) Permits the district to levy a maintenance and operating tax.
(b) The maintenance tax must be approved by a majority vote of the district residents.
(c) Permits a maintenance and operating tax election to be held at the same time as an election to create a district.

SECTION 59. (a) permits the Board to levy taxes.
(b) Requires the Board to levy taxes on all property subject to district jurisdiction.

SECTION 60. Requires the Board to consider other sources of income in setting the tax rate. The tax rate must be certified by the assessor-collector.

SECTION 61. (a) The Tax Code governs the appraisal, assessment, and collection of district taxes.
(b) Permits the Board to appoint a district tax assessor-collector or may contract one.

SECTION 62. Emergency Clause.

REPAIRING AUTHORITY

This Act grants the Irion County Water Conservation District the power to levy tax on all property within the boundaries of the district and to adopt rules that are necessary to provide for the conservation, preservation, protection, recharge, and prevention of waste and pollution of underground and surface water.

Summary of Committee Action

The Committee on Natural Resources heard S.B. 206 in formal meeting on April 4, 1985, upon adjournment of the House of Representatives at Chairman Craddick's desk, Desk 70. It was moved that S.B. 206 be reported back to the House with the recommendation that it do pass, without amendments and that it be sent to the consent calendar. The motion prevailed with a vote of 6 ayes, no nays, 3 absent, and no present-not-voting.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 4, 1985

Honorable Tom Craddick, Chair
Committee on Natural Resources
House of Representatives
Austin, Texas

In Re: Senate Bill No. 206, as engrossed
By: Sims

Sir:

In response to your request for a Fiscal Note on Senate Bill No. 206, as engrossed (relating to the creation, administration, powers, duties operations, fiscal procedures, and taxing authority of the Irion County Water Conservation District) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal impact on units of local government.


Jim Oliver
Director

Source: Secretary of State;
LBB Staff: JO, JH, PA

State of Texas
House of Representatives

DISTRICT 67

GERALD GEISTWEIDT
STATE REPRESENTATIVE

P.O. BOX 2910
AUSTIN, TEXAS 78769-2910
(512) 475-0370

P.O. DRAWER P
MASON, TEXAS 76856
(915) 347-6328

April 4, 1985

The Honorable Tom Craddick
Chairman, House Natural Resources Committee

RE: Author's Fiscal Statement, Senate Bill 206 by Sims
(relating to the creation, administration, powers, duties,
operations, fiscal procedures, and taxing authority of
the Irion County Water Conservation District).

Sir,

In response to your request for an Author's Fiscal Statement
on the above mentioned measure, I have determined:

1. COST TO STATE GOVERNMENT: absolutely no fiscal
implication is anticipated (per L.B.B.)
2. COST TO IRION COUNTY: funded through tax revenues and
permits issued from the Irion Co. Water Conservation
District:
 - A. Cost of confirmation election
 - B. Per diem expenses of board
 - C. Compensation for professional assistance
 - D. Administrative expenses
3. FISCAL YEAR PROJECTIONS:
1986....\$32,750
1987....\$32,750 and any professional assistance
1988....same as 1987 anticipated
1989....same as 1987 anticipated
1990....same as 1987 anticipated

Please let me know if I can provide further information to
you or the committee.

Respectfully,



Gerald Geistweidt
(House Sponsor SB 206)

Enrolled *April 22, 1985*
Patsy Spaw
Enrolling Clerk

S.B. No. 206

1 AN ACT
2 relating to the creation, administration, powers, duties,
3 operations, fiscal procedures, and taxing authority of the Irion
4 County Water Conservation District.

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

6 SECTION 1. CREATION OF DISTRICT. On approval at the
7 election required by Section 6 of this Act, the Irion County Water
8 Conservation District is created under Article XVI, Section 59, of
9 the Texas Constitution.

10 SECTION 2. DEFINITION. In this Act, "district" means the
11 Irion County Water Conservation District.

12 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
13 that:

14 (1) the organization of the district is feasible and
15 practicable;

16 (2) the land to be included in and the residents of the
17 district will be benefited by the creation of the district;

18 (3) there is a public necessity for the district; and

19 (4) the creation of the district will further the public
20 welfare.

21 SECTION 4. BOUNDARIES. The district is composed of all the
22 territory located within Irion County.

23 SECTION 5. TEMPORARY DIRECTORS. (a) On the effective date
24 of this Act, the following persons are designated as temporary
25 directors of the district:

- 1 (1) Precinct 1--Loye Tankersley
- 2 (2) Precinct 2--Jim Westfall
- 3 (3) Precinct 3--Tim Bennie
- 4 (4) Precinct 4--Buck Whitley
- 5 (5) At Large--Jane D. Murray.

6 (b) If a vacancy occurs in the office of temporary director,
 7 the remaining temporary directors shall select a person with the
 8 same qualifications as provided by Section 9 of this Act to fill
 9 the vacancy.

10 (c) The temporary directors shall select from their members
 11 persons to serve as chairman, vice-chairman, and secretary.

12 SECTION 6. CREATION ELECTION. (a) Not later than the 30th
 13 day after the effective date of this Act, the temporary directors
 14 shall meet and shall call an election to be held not later than the
 15 120th day after the effective date of this Act within the
 16 boundaries of the proposed district to approve the creation of the
 17 district.

18 (b) In the order calling the election, the temporary
 19 directors shall designate election precincts and polling places for
 20 the election.

21 (c) The temporary directors shall publish notice of the
 22 election at least one time in a newspaper or newspapers that have
 23 general circulation within the boundaries of the proposed district.
 24 The notice must be published before the 30th day preceding the date
 25 of the election.

26 (d) The ballot for the election must be printed to provide

1 for voting for or against the proposition: "The creation of the
2 Irion County Water Conservation District."

3 (e) Immediately after the election, the presiding judge of
4 each polling place shall deliver the returns of the election to the
5 temporary directors, and the temporary directors shall canvass the
6 returns and declare the result.

7 (f) If a majority of the votes cast at the election favor
8 the creation of the district, the temporary directors shall declare
9 the district created and shall enter the results in their minutes.
10 If a majority of the votes cast at the election are against the
11 creation of the district, the temporary directors shall declare the
12 district defeated and shall enter the results in their minutes.
13 The temporary directors shall file a copy of the election results
14 with the Texas Department of Water Resources.

15 (g) If the creation of the district is defeated, further
16 elections may be called by the temporary directors to create the
17 district, but another election to confirm creation of the district
18 may not be called and held before the first anniversary of the most
19 recent creation election. If the district is not created within
20 five years after the effective date of this Act, this Act expires.

21 SECTION 7. INITIAL DIRECTORS. (a) On approval of the
22 creation of the district under Section 6 of this Act, the temporary
23 directors become the permanent directors of the district and shall
24 serve on the board of directors for terms as provided by Subsection
25 (b) of this section.

26 (b) The persons serving as directors for Precincts 1 and 3

2/24

1 shall serve as directors until the first regular meeting of the
2 board of directors in April following the first regular directors'
3 election. The persons serving as directors for Precincts 2 and 4
4 and the director serving at large shall serve until the first
5 regular meeting of the board of directors in April following the
6 second regular directors' election.

7 SECTION 8. COMPOSITION OF BOARD OF DIRECTORS. (a) The
8 board of directors of the district is composed of five members.

9 (b) One director shall be elected from the district at large
10 and one director shall be elected from each county commissioners
11 precinct.

12 SECTION 9. QUALIFICATIONS OF BOARD MEMBERS. (a) To be
13 qualified for election as a director, a person must be a resident
14 of the district and must be at least 18 years of age.

15 (b) In addition to the requirements of Subsection (a) of
16 this section, a person who is a director from a county
17 commissioners precinct must be a resident of that precinct.

18 SECTION 10. ELECTION OF DIRECTORS. Beginning in the year
19 following the creation election, an election shall be held on the
20 first Saturday in April of each year to elect the appropriate
21 number of directors to the board.

22 SECTION 11. TERM OF OFFICE. Except for the initial
23 directors of the district, directors shall serve for terms of two
24 years.

25 SECTION 12. BEGINNING OF DIRECTOR'S TERM. A director takes
26 office at the first regular meeting of the board in April following

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1 election to the board.

2 SECTION 13. VACANCY ON BOARD. A vacancy on the board is
3 filled by appointment of the remaining members of the board for the
4 unexpired term.

5 SECTION 14. OATH. Each director shall take the
6 constitutional oath of office required of state officers.

7 SECTION 15. COMPENSATION. Each director is entitled to
8 receive for his services not more than \$25 a day for each day
9 actually engaged in duties for the district.

10 SECTION 16. ORGANIZATION OF BOARD. (a) After each
11 directors' election, the board shall hold a regular meeting at the
12 district office and shall organize by electing from the members of
13 the board one person to serve as chairman, one person to serve as
14 vice-chairman, and one person to serve as secretary.

15 (b) A person selected to serve as chairman, vice-chairman,
16 or secretary serves in that capacity for a term of two years.

17 (c) The chairman shall preside over meetings of the board,
18 and in his absence, the vice-chairman shall preside.

19 (d) The chairman, vice-chairman, and secretary shall perform
20 the duties and may exercise the powers specifically given them by
21 this Act or by orders of the board.

22 SECTION 17. QUORUM. A majority of the members of the board
23 constitute a quorum for the transaction of business of the
24 district, but no official action of the board is valid without the
25 affirmative vote of a majority of the members of the board.

26 SECTION 18. OTHER OFFICERS. (a) The board shall appoint

1 persons to serve as treasurer and attorney for the district.

2 (b) The persons appointed under this section are entitled to
3 the compensation provided by the district's budget.

4 (c) The person appointed as treasurer shall execute a bond
5 in the amount determined by the board, payable to the district,
6 conditioned on the faithful performance of the treasurer's duties.
7 The district shall pay for the bond.

8 SECTION 19. GENERAL MANAGER. (a) The board may employ a
9 general manager to be the chief administrative officer of the
10 district and may delegate to him full authority to manage and
11 operate the affairs of the district subject only to orders of the
12 board.

13 (b) The general manager shall execute a bond in the amount
14 determined by the board, payable to the district, and conditioned
15 on the faithful performance of the general manager's duties. The
16 district shall pay for the bond.

17 (c) The general manager is entitled to receive the
18 compensation provided by the district's budget.

19 SECTION 20. ENGINEER. The board may appoint or contract
20 with a competent professional engineer for the district and may
21 determine the amount of compensation to be paid to the engineer.

22 SECTION 21. PERSONNEL. (a) The general manager or the
23 board may employ other persons necessary for the proper handling of
24 the business and operation of the district and may employ or
25 contract with expert and specialized personnel who are necessary to
26 carry out this Act.

1 (b) The board shall determine the terms of employment and
2 the compensation to be paid to employees under this section.

3 (c) The general manager or a majority of the members of the
4 board may dismiss an employee of the district.

5 (d) The board shall require each employee or person under
6 contract to the district who collects, pays, or handles any funds
7 of the district to furnish a bond, payable to the district, for an
8 amount sufficient to protect the district from financial loss
9 resulting from actions of the employee or other person. Each bond
10 shall be conditioned on the faithful performance of the employee's
11 or person's duties and on accounting for all money and property of
12 the district in his hands. The district shall pay for each bond.

13 SECTION 22. OFFICE. The board shall maintain an office
14 within the boundaries of the district for conducting the business
15 of the district.

16 SECTION 23. MEETINGS OF BOARD. The board shall hold regular
17 meetings at the district's office at least once each month on a
18 date established by rule of the board.

19 SECTION 24. MINUTES AND RECORDS. (a) The board shall keep
20 a complete written account of all its meetings and other
21 proceedings and shall preserve its minutes, contracts, records,
22 plans, notices, accounts, receipts, and records of all kinds in a
23 secure manner at the district's office.

24 (b) Minutes, contracts, records, plans, notices, accounts,
25 receipts, and other records are the property of the district and
26 are subject to public inspection.

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1 SECTION 25. CONTRACTS. The board may enter into contracts
2 as provided by Chapter 51, Water Code, and those contracts shall be
3 executed by the board in the name of the district.

4 SECTION 26. SUPERVISION OF DISTRICT. The district is
5 subject to the continuing right of supervision by the state, to be
6 exercised by the Texas Department of Water Resources under this Act
7 and the Water Code.

8 SECTION 27. SUITS; PAYMENT OF JUDGMENTS. (a) The district
9 may, through its board, sue and be sued in any court of this state
10 in the name of the district. Service of process in a suit may be
11 had by serving the general manager.

12 (b) The courts of this state shall take judicial notice of
13 the creation of the district.

14 (c) A court of this state that renders a money judgment
15 against the district may require the board to pay the judgment from
16 money in the district depository that is not dedicated to the
17 payment of any indebtedness of the district.

18 SECTION 28. SEAL. The board shall adopt a seal for the
19 district.

20 SECTION 29. PURPOSE OF DISTRICT. The district is created to
21 provide for the conservation, preservation, protection, recharge,
22 and prevention of waste and pollution of the underground and
23 surface water of the district consistent with the objectives of
24 Article XVI, Section 59, of the Texas Constitution, and Chapters 51
25 and 52, Water Code.

26 SECTION 30. RULES. (a) The board may adopt rules that are

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1 necessary to carry out the purpose and powers under this Act and
2 may enforce those rules by injunction, mandatory injunction, or
3 other appropriate remedies in a court of competent jurisdiction.

4 (b) In addition to the rules adopted under Subsection (a) of
5 this section, the board may adopt and enforce rules as provided by
6 Sections 51.127 through 51.132, Water Code, as amended.

7 SECTION 31. EXERCISE OF POWERS AND DUTIES UNDER WATER CODE.

8 Except to the extent of any conflict with this Act or as
9 specifically limited by this Act, the district may exercise the
10 powers granted and shall exercise the duties under Subchapters D,
11 O, and P, Chapter 51, Water Code, and Subchapter D, Chapter 52,
12 Water Code, to carry out the purpose of the district and this Act.

13 SECTION 32. LIMITATION ON PERMIT AUTHORITY. If the district

14 regulates production of underground water by permit as authorized
15 by Chapter 52, Water Code, the board may not deny a permit to drill
16 a well to the owner of land, his heirs, assigns, and lessees on his
17 land and the right to produce water from that well under rules
18 adopted by the district.

19 SECTION 33. STUDIES AND SURVEYS. The board shall have

20 professional engineers make studies and surveys of the underground
21 and surface water supplies within the district and the facilities
22 available for use in the conservation, preservation, protection,
23 recharge, and prevention of waste and pollution of those water
24 resources. The professional engineers also shall determine the
25 quantities of both underground and surface water in the district.

26 SECTION 34. PLANS AND SPECIFICATIONS. The district shall

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1 develop and implement comprehensive plans for the conservation,
2 preservation, protection, recharge, and prevention of waste and
3 pollution of underground and surface water within the district.
4 The plans shall include all works, facilities, and improvements
5 necessary to implement the plans and the specifications for those
6 works, facilities, and improvements.

7 SECTION 35. RESEARCH; INFORMATION. The district shall
8 engage in research projects and shall develop information to be
9 used by the district in preparing and implementing its plans and in
10 carrying out its powers and duties under this Act.

11 SECTION 36. CONTROL, STORAGE, AND PRESERVATION OF WATER FOR
12 CERTAIN PURPOSES. Subject to obtaining the permits required by
13 law, the district may control, store, and preserve the storm water
14 and floodwater in the district and the water of the rivers and
15 streams in the district for irrigation of arid land, prevention of
16 floods and flood damage in the district, and domestic,
17 agricultural, and industrial uses.

18 SECTION 37. RECLAMATION. The district may reclaim land
19 within the district and may construct necessary works, facilities,
20 and improvements to accomplish this purpose.

21 SECTION 38. SOIL CONSERVATION AND IMPROVEMENT; TERRACING.
22 The district may construct and maintain terraces and other
23 structures on land in the district and may engage in and promote
24 land treatment measures for soil conservation and improvement.

25 SECTION 39. ACQUISITION AND CONSTRUCTION OF WORKS,
26 FACILITIES, AND IMPROVEMENTS. (a) The district may construct or

1 acquire and improve and maintain works, facilities, and
2 improvements necessary to carry out the purpose, powers, and plans
3 of the district.

4 (b) The district shall construct and acquire works,
5 facilities, and improvements in the manner provided by Chapter 51,
6 Water Code, for water control and improvement districts.

7 SECTION 40. INPUT WELLS. The district may drill, equip,
8 operate, and maintain input wells, pumps, and other facilities to
9 carry out its purpose and powers under this Act.

10 SECTION 41. ACQUISITION OF PROPERTY. The district may
11 acquire by gift, grant, devise, lease, purchase, or condemnation
12 any land or other property necessary to carry out this Act.

13 SECTION 42. EMINENT DOMAIN. (a) The district may exercise
14 the power of eminent domain to acquire by condemnation a fee simple
15 or other interest in property located inside the district if the
16 property interest is necessary to the exercise of the authority
17 conferred by this chapter.

18 (b) The district must exercise the power of eminent domain
19 in the manner provided by Chapter 21, Property Code, but the
20 district is not required to deposit in the trial court money or a
21 bond as provided by Subsection (a), Section 21.021, Property Code.

22 (c) In a condemnation proceeding brought by a district, the
23 district is not required to pay in advance or give bond or other
24 security for costs in the trial court, to give bond for the
25 issuance of a temporary restraining order or a temporary
26 injunction, or to give bond for costs or supersedeas on an appeal

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1 or writ of error.

2 (d) In exercising the power of eminent domain, if the
3 district requires relocating, raising, lowering, rerouting,
4 changing the grade, or altering the construction of any railroad,
5 highway, pipeline, or electric transmission and electric
6 distribution, telegraph, or telephone lines, conduits, poles, or
7 facilities, the district must bear the actual cost of relocating,
8 raising, lowering, rerouting, changing the grade, or altering the
9 construction to provide comparable replacement without enhancement
10 of facilities after deducting the net salvage value derived for the
11 old facility.

12 SECTION 43. SALE AND DISPOSAL OF PROPERTY. Subject to this
13 Act and Chapters 51 and 52, Water Code, the district may sell or
14 otherwise dispose of land and other property of the district that
15 is not necessary to carry out the purpose or powers of the district
16 as determined by the board.

17 SECTION 44. PROHIBITED ACTIONS. (a) The district may not
18 enter into any contract or engage in any action to supply
19 underground or surface water inside or outside the district.

20 (b) The district may not issue bonds or levy a property tax
21 to secure the payment of bonds.

22 SECTION 45. PROTECTION OF WATER RIGHTS. The ownership and
23 rights of the owner of land, his lessees, and assigns in
24 underground and any surface water rights are recognized and this
25 Act does not deprive or divest the owner, his lessees, and assigns
26 of those ownership rights.

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1 SECTION 46. FISCAL YEAR. (a) The district shall be
2 operated on the basis of a fiscal year established by the board.

3 (b) The fiscal year may not be changed more than once in a
4 24-month period.

5 SECTION 47. ANNUAL AUDIT. Annually, the board shall have an
6 audit made of the financial condition of the district.

7 SECTION 48. RECORDS. The annual audit and other district
8 records must be open to inspection during regular business hours at
9 the principal office of the district.

10 SECTION 49. ANNUAL BUDGET. (a) The board shall prepare and
11 approve an annual budget.

12 (b) The budget shall contain a complete financial statement,
13 including a statement of:

14 (1) the outstanding obligations of the district;

15 (2) the amount of cash on hand to the credit of the
16 district;

17 (3) the amount of money received by the district from all
18 sources during the previous year;

19 (4) the amount of money available to the district from all
20 sources during the ensuing year;

21 (5) the amount of the balances expected at the end of the
22 year in which the budget is being prepared;

23 (6) the estimated amount of revenues and balances available
24 to cover the proposed budget; and

25 (7) the estimated maintenance and operating tax rate that
26 will be required.

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1 SECTION 50. NOTICE; HEARING; ADOPTION OF BUDGET. (a) The
2 board shall hold a public hearing on the annual budget.

3 (b) At least 10 days before the date set for the hearing,
4 notice of the hearing must be published in a newspaper or
5 newspapers that have general circulation within the boundaries of
6 the district.

7 (c) Any person residing within the boundaries of the
8 district is entitled to be present at and participate in the
9 hearing.

10 (d) At the conclusion of the hearing, the board shall act on
11 the budget and may make changes in the proposed budget that in its
12 judgment the interests of the taxpayers demand.

13 SECTION 51. AMENDING BUDGET. After the annual budget is
14 adopted, it may be amended on the board's approval.

15 SECTION 52. LIMITATION ON EXPENDITURES. Money may not be
16 spent for an expense not included in the annual budget or an
17 amendment to it.

18 SECTION 53. SWORN STATEMENT. As soon as practicable after
19 the close of the fiscal year, the general manager shall prepare for
20 the board a sworn statement of the amount of money that belongs to
21 the district and an account of the disbursements of that money.

22 SECTION 54. DEPOSITORY. (a) The board shall name one or
23 more banks to serve as depository for district funds.

24 (b) District funds shall be deposited as received with the
25 depository bank and shall remain on deposit. This subsection does
26 not limit the power of the board to place a portion of the

1 district's funds on time deposit or to purchase certificates of
2 deposit.

3 (c) Before the district deposits funds in a bank in an
4 amount that exceeds the maximum amount secured by the Federal
5 Deposit Insurance Corporation, the bank must execute a bond or
6 provide other security in an amount sufficient to secure from loss
7 the district's funds that exceed the amount secured by the Federal
8 Deposit Insurance Corporation.

9 SECTION 55. INVESTMENTS. (a) Funds of the district may be
10 invested and reinvested by the board or its authorized
11 representative in direct or indirect obligations of the United
12 States, the state, or any county, city, school district, or other
13 political subdivision of the state.

14 (b) Funds of the district may be placed in certificates of
15 deposit of state or national banks, or state or federal savings and
16 loan associations, within the state provided that the funds are
17 secured in the manner required for the security of the funds of
18 counties of the state.

19 (c) The board by resolution may provide that an authorized
20 representative of the district may invest and reinvest the funds of
21 the authority and provide for money to be withdrawn from the
22 appropriate accounts of the district for investments on such terms
23 as the board considers advisable.

24 SECTION 56. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) The
25 district's directors may pay all costs and expenses necessarily
26 incurred in the creation and organization of the district, legal

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1 fees, and other incidental expenses and may reimburse any person
2 for money advanced for these purposes.

3 (b) Payments may be made from money obtained from
4 maintenance taxes or other revenues of the district.

5 SECTION 57. BORROWING MONEY. The district may borrow money
6 for any purpose authorized under this Act or any combination of
7 those purposes.

8 SECTION 58. MAINTENANCE AND OPERATING TAX. (a) The
9 district may annually levy and collect a tax on property within the
10 boundaries of the district for use in maintaining facilities of the
11 district and for paying operating expenses of the district.

12 (b) A maintenance and operating tax may not be levied by the
13 district until it is approved by a majority vote of the individuals
14 qualified to vote in the area within the boundaries of the district
15 voting at an election called and held for that purpose.

16 (c) A maintenance and operating tax election may be held at
17 the same time and in conjunction with the election to create the
18 district. The procedure for calling and holding an election and
19 for canvassing returns of an election under this section is the
20 same as for the creation election under Section 6 of this Act.

21 SECTION 59. BOARD AUTHORITY. (a) The board may levy taxes
22 for the entire year in which the district is created.

23 (b) The board shall levy taxes on all property within the
24 boundaries of the district subject to district taxation.

25 SECTION 60. TAX RATE. In setting the tax rate, the board
26 shall take into consideration the income of the district from

1 sources other than taxation. On determination of the amount of tax
2 required to be levied, the board shall make the levy and certify it
3 to the tax assessor-collector.

4 SECTION 61. TAX APPRAISAL, ASSESSMENT, AND COLLECTION. (a)
5 The Tax Code governs the appraisal, assessment, and collection of
6 district taxes.

7 (b) The board may provide for the appointment of a tax
8 assessor-collector for the district or may contract for the
9 assessment and collection of taxes as provided by the Tax Code.

10 SECTION 62. EMERGENCY. The importance of this legislation
11 and the crowded condition of the calendars in both houses create an
12 emergency and an imperative public necessity that the
13 constitutional rule requiring bills to be read on three several
14 days in each house be suspended, and this rule is hereby suspended,
15 and that this Act take effect and be in force from and after its
16 passage, and it is so enacted.

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S.B. No. 206

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 206 passed the Senate on March 6, 1985, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 206 passed the House on April 18, 1985, by the following vote: Yeas 139, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

S.B. No. 206

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 206 (1) passed the Senate on
March 6 (2), 1985, by the following vote:
Yeas 31 (3), Nays 0 (4).

Secretary of the Senate

I hereby certify that S.B. No. 206 (1) passed the House on
April 18 (5), 1985, by the following vote:
Yeas 139 (6), Nays 0 (7). *two present not voting*

Chief Clerk of the House

Approved:

Date

Governor

AN ACT relating to the creation, administration, powers, duties, operations, fiscal procedures, and taxing authority of the Irion County Water Conservation District.

1-18-85 Filed with the Secretary of the Senate

JAN 21 1985 Read, referred to Committee on NATURAL RESOURCES

Reported favorably.

MAR 5 1985 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed.

MAR 6 1985 Senate and Constitutional Rules to permit consideration suspended by

{ unanimous consent }
_____ yeas, _____ nays.

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

MAR 6 1985 Read second time and { ordered engrossed }
passed to third reading.

Caption ordered amended to conform to body of bill.

MAR 6 1985 Senate and Constitutional 3-Day Rules suspended by vote of 30 yeas, 1 nays to place bill on third reading and final passage.

MAR 6 1985 Read third time and passed by { a viva-voce vote. }
31 yeas, 0 nays.

OTHER ACTION:

Betty King
Secretary of the Senate

March 6, 1985 Engrossed

March 7, 1985 Sent to House

Patsy Spaw
ENGROSSING CLERK

MAR 7 1985 Received from the Senate

MAR 12 1985 Read first time and referred to Committee on Natural Resources

4-4-85 Reported favorably ~~amended~~, sent to Printer at 5:25 p.m.
APR 1 1 1985

APR 11 1985 Printed and Distributed 8:18 p.m.

APR 12 1985 Sent to Committee on Calendars consent 9:36 a.m.

APR 18 1985 Read Second time (~~amended~~): passed to third reading (~~failed~~)

by (Non-Record Vote) Record Vote of _____ yeas, _____ nays

~~Present, not voting~~

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas _____ nays _____ present not voting.

APR 18 1985 Read third time (~~amended~~); finally passed (~~failed~~) by a (~~Non-Record Vote~~) Record Vote of 139 yeas 0 nays 2 present not voting.

Caption ordered amended to conform to body of bill.

APR 22 1985 Returned to Senate.

Betty Murren
Chief Clerk of the House

APR 22 1985 - RETURNED FROM HOUSE