

APR 12 1989
RB 3122

Natural Resources

[Signature]
Chief Clerk of the House

FILED APR 12 1989

By *[Signature]*

H.B. No. 3122

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation, administration, powers, duties,
3 operation, and financing of the Lampasas County Underground Water
4 Conservation District.

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

6 SECTION 1. CREATION. (a) An underground water conservation
7 district, to be known as the Lampasas County Underground Water
8 Conservation District, is created in Lampasas County, subject to
9 approval at a confirmation election under Section 9 of this Act.
10 The district is a governmental agency and a body politic and
11 corporate.

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

15 SECTION 2. DEFINITION. In this Act, "district" means the
16 Lampasas County Underground Water Conservation District.

17 SECTION 3. BOUNDARIES. The district includes all the
18 territory located within Lampasas County.

19 SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature
20 finds that the boundaries of the district form a closure.

21 SECTION 5. FINDING OF BENEFIT. All of the land and other
22 property included within the boundaries of the district will be
23 benefited by the works and projects that are to be accomplished by
24 the district under powers conferred by Article XVI, Section 59, of

1 the Texas Constitution. The district is created to serve a public
2 use and benefit.

3 SECTION 6. POWERS. (a) The district has all of the rights,
4 powers, privileges, authority, functions, and duties provided by
5 the general law of this state, including Chapters 50 and 52, Water
6 Code, applicable to underground water conservation districts
7 created under Article XVI, Section 59, of the Texas Constitution.
8 This Act prevails over any provision of general law that is in
9 conflict or inconsistent with this Act.

10 (b) The rights, powers, privileges, authority, functions,
11 and duties of the district are subject to the continuing right of
12 supervision of the state to be exercised by and through the Texas
13 Water Commission.

14 SECTION 7. BOARD OF DIRECTORS. (a) The district is
15 governed by a board of five directors composed of the county judge
16 and the county commissioners of Lampasas County.

17 (b) The county judge is the chairman of the board of
18 directors.

19 (c) The county judge and each county commissioner serves as
20 a director as an additional duty of service on the commissioners
21 court.

22 SECTION 8. TEMPORARY DIRECTORS. The county judge and the
23 county commissioners of Lampasas County shall serve as the
24 temporary board of directors.

25 SECTION 9. CONFIRMATION ELECTION. (a) The temporary board
26 of directors shall call and hold an election to confirm
27 establishment of the district.

1 (b) At the confirmation election, the temporary board of
2 directors may not include a proposition on the ballot to levy and
3 collect a property tax in the district.

4 (c) If the district is created at the election, the
5 temporary directors, at the time the vote is canvassed, shall
6 become the regular directors of the district.

7 (d) Section 41.001(a), Election Code, does not apply to a
8 confirmation election held as provided by this section.

9 (e) Except as provided by this section, a confirmation
10 election must be conducted as provided by Sections 52.058(b)-(g),
11 Water Code, and the Election Code.

12 SECTION 10. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

13 (a) The proper and legal notice of the intention to introduce this
14 Act, setting forth the general substance of this Act, has been
15 published as provided by law, and the notice and a copy of this Act
16 have been furnished to all persons, agencies, officials, or
17 entities to which they are required to be furnished by the
18 constitution and other laws of this state, including the governor,
19 who has submitted the notice and Act to the Texas Water Commission.

20 (b) The Texas Water Commission has filed its recommendations
21 relating to this Act with the governor, lieutenant governor, and
22 speaker of the house of representatives within the required time.

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

27 SECTION 11. EMERGENCY. The importance of this legislation

1 and the crowded condition of the calendars in both houses create an
2 emergency and an imperative public necessity that the
3 constitutional rule requiring bills to be read on three several
4 days in each house be suspended, and this rule is hereby suspended,
5 and that this Act take effect and be in force from and after its
6 passage, and it is so enacted.

PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF LAMPASAS

Before me, a Notary Public ^{jet} in and for Lampasas County, ^{jet} this day personally appeared ¹⁻²⁰⁰ Jim Lowe, ¹⁻²⁰⁰ Editor, Lampasas Dispatch, who, being duly sworn, states that the following advertisement was published in the Lampasas Dispatch on March 2, 1989.

22. PUBLIC NOTICES

NOTICE IS HEREBY GIVEN OF intent to introduce during the 71st Texas Legislature legislation relating to the creation, administration, powers, duties, operation, and financing of an underground water conservation district in Lampasas County.

(18c)

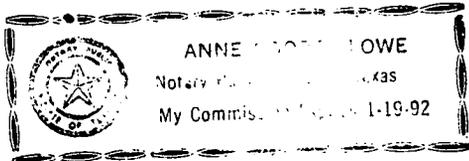
Fred E. Lowe

Fred E. Lowe-Publisher

Sworn to and subscribed before me this 30 day of March, 1989.

Anne Cooper Lowe

My commission expires _____, 19__.



LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

TO: The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Water Commission copies of House Bill No. 3122, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Water Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

APR 12 1989

Date transmitted to
Governor's Office


Betty Murray, Chief Clerk
House of Representatives

TO: Texas Water Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of House Bill No. 3122, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

4/14/89 AK
Date transmitted to
Texas Water Commission


William P. Clements, Jr.
Governor

TO: The Honorable Gibson D. "Gib" Lewis
Speaker of the House

The Honorable William P. Hobby
President of the Senate

The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Water Commission on House Bill No. _____, in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.


Allen Beinke
Executive Director

HOUSE COMMITTEE REPORT

3. 11. 1970

1st Printing

By Schlueter

H.B. No. 3122

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation, administration, powers, duties,
3 operation, and financing of the Lampasas County Underground Water
4 Conservation District.

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

6 SECTION 1. CREATION. (a) An underground water conservation
7 district, to be known as the Lampasas County Underground Water
8 Conservation District, is created in Lampasas County, subject to
9 approval at a confirmation election under Section 9 of this Act.
10 The district is a governmental agency and a body politic and
11 corporate.

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

15 SECTION 2. DEFINITION. In this Act, "district" means the
16 Lampasas County Underground Water Conservation District.

17 SECTION 3. BOUNDARIES. The district includes all the
18 territory located within Lampasas County.

19 SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature
20 finds that the boundaries of the district form a closure.

21 SECTION 5. FINDING OF BENEFIT. All of the land and other
22 property included within the boundaries of the district will be
23 benefited by the works and projects that are to be accomplished by
24 the district under powers conferred by Article XVI, Section 59, of

1 the Texas Constitution. The district is created to serve a public
2 use and benefit.

3 SECTION 6. POWERS. (a) The district has all of the rights,
4 powers, privileges, authority, functions, and duties provided by
5 the general law of this state, including Chapters 50 and 52, Water
6 Code, applicable to underground water conservation districts
7 created under Article XVI, Section 59, of the Texas Constitution.
8 This Act prevails over any provision of general law that is in
9 conflict or inconsistent with this Act.

10 (b) The rights, powers, privileges, authority, functions,
11 and duties of the district are subject to the continuing right of
12 supervision of the state to be exercised by and through the Texas
13 Water Commission.

14 SECTION 7. BOARD OF DIRECTORS. (a) The district is
15 governed by a board of five directors composed of the county judge
16 and the county commissioners of Lampasas County.

17 (b) The county judge is the chairman of the board of
18 directors.

19 (c) The county judge and each county commissioner serves as
20 a director as an additional duty of service on the commissioners
21 court.

22 SECTION 8. TEMPORARY DIRECTORS. The county judge and the
23 county commissioners of Lampasas County shall serve as the
24 temporary board of directors.

25 SECTION 9. CONFIRMATION ELECTION. (a) The temporary board
26 of directors shall call and hold an election to confirm
27 establishment of the district.

1 (b) At the confirmation election, the temporary board of
2 directors may not include a proposition on the ballot to levy and
3 collect a property tax in the district.

4 (c) If the district is created at the election, the
5 temporary directors, at the time the vote is canvassed, shall
6 become the regular directors of the district.

7 (d) Section 41.001(a), Election Code, does not apply to a
8 confirmation election held as provided by this section.

9 (e) Except as provided by this section, a confirmation
10 election must be conducted as provided by Sections 52.058(b)-(g),
11 Water Code, and the Election Code.

12 SECTION 10. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

13 (a) The proper and legal notice of the intention to introduce this
14 Act, setting forth the general substance of this Act, has been
15 published as provided by law, and the notice and a copy of this Act
16 have been furnished to all persons, agencies, officials, or
17 entities to which they are required to be furnished by the
18 constitution and other laws of this state, including the governor,
19 who has submitted the notice and Act to the Texas Water Commission.

20 (b) The Texas Water Commission has filed its recommendations
21 relating to this Act with the governor, lieutenant governor, and
22 speaker of the house of representatives within the required time.

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

27 SECTION 11. EMERGENCY. The importance of this legislation

1 and the crowded condition of the calendars in both houses create an
2 emergency and an imperative public necessity that the
3 constitutional rule requiring bills to be read on three several
4 days in each house be suspended, and this rule is hereby suspended,
5 and that this Act take effect and be in force from and after its
6 passage, and it is so enacted.

1
2
3
4
5
6
7

COMMITTEE AMENDMENT NO. 1

Amend H.B. 3122 as follows:

(1) On page 1, line 7, strike "Lampasas County" and substitute "Saratoga".

(2) On page 1, line 16, strike "Lampasas County" and substitute "Saratoga".

Yost

COMMITTEE REPORT

May 5, 1989

(date)

The Honorable Gib Lewis
Speaker of the House of Representatives

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,

to whom was referred HB 3122 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

() do pass, without amendment.

(X) do pass, with amendment(s).

() do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. () yes (x) no

An actuarial analysis was requested. () yes (x) no

An author's fiscal statement was requested. (X) yes () no

A criminal justice policy impact statement was prepared. () yes (x) no

A water development policy impact statement was requested. (X) yes () no

(X) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, (X) Consent, or () Resolutions Calendar.

This measure (x) proposes new law. () amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	X			
Willy, V.C.	X			
Collazo, C.B.O.				X
Culberson	X			
Holzheuser				X
Junell	X			
Swift				X
Wentworth	X			
Yost	X			

Total

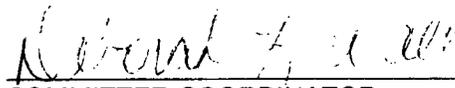
6 aye

0 nay

0 present, not voting

3 absent


CHAIRMAN


COMMITTEE COORDINATOR

BILL ANALYSIS

Background

It is believed that creation of the Lampasas County Underground Water Conservation District would benefit residents of the area.

Purpose of the Bill

This bill creates the district and provides for its operation.

Section by Section Analysis

Section 1. Creates the district.

Section 2. Definition.

Section 3. Includes all territory in the county in the district.

Section 4. Legislative finding that the boundaries form a closure.

Section 5. Legislative finding of benefit.

Section 6. Provides for the powers of the district under Chapters 50 and 52, Water Code, as applicable to districts created under Article XVI, Section 59 of the Texas Constitution.

Section 7. Provides for the county judge and county commissioners to comprise the districts' board of directors.

Section 8. Provides for the same membership for the temporary board of directors.

Section 9. Provides for the holding of a confirmation election under provisions of the Election Code. Prohibits inclusion of property tax propositions in the confirmation election.

Section 10. Legislative finding of compliance with procedural requirements.

Section 11. Emergency clause.

Rulemaking Authority

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state agency, officer, department, or institution.

Summary of Committee Action

HB 3122 was posted for consideration in public hearing on April 26, 1989. No action was taken on the bill in that hearing.

The posting rules were suspended on May 3, 1989 in order for HB 3122 to be considered in public hearing on that day. Representative Willy laid out the bill, and moved that it be left pending in committee until necessary amendments could be drafted. There being no objection, HB 3122 was left pending on May 3, 1989.

HB 3122 was considered in formal meeting on May 5, 1989. Representative Yost proposed an amendment to change the name of the district to the Saratoga Underground Water Conservation District. There being no objection, the amendment was adopted. The motion to report HB 3122 favorably, with amendment, to the consent calendar carried with a vote of 6 ayes, 0 nays, 0 PNV, and 3 absent.



STAN SCHLUETER
STATE REPRESENTATIVE

CHAIRMAN
CALENDARS
COMMITTEE

WAYS AND MEANS
GOVERNMENT ORGANIZATION
LEGISLATIVE COUNCIL

April 26, 1989

Honorable Terral Smith
Committee on Natrual Resources
Room 232
Reagan Building, HAND-DELIVER

Dear Terral:

In response to your request for an Author's Fiscal Statement on House Bill 3112, I have determined the following:

1. COST TO STATE GOVERNMENT: No fiscal implication to the State is anticipated.
2. COST TO LAMPASAS COUNTY GOVERNMENT: As provided in the bill, the County would create the Lampasas County Underground Water District. If a special election is called the cost would be approximately \$2800.00. If the election is held during a previously called election, the additional cost would be negligible.

3. FISCAL YEAR PROJECTIONS:

1989...annticipated cost \$2800.00
1990...no additional cost anticipated
1991...no additional cost anticipated
1992...no additional cost anticipated
1993...no additional cost anticipated

If you need additional information, please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stan Schlueter".

STAN SCHLUETER
CHAIRMAN
CALENDARS COMMITTEE

SS:cj

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 27, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives
P.O. Box 2910
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 3122) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Lampasas County Underground Water Conservation District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

A handwritten signature in cursive script that reads "Allen Beinke".

Allen Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Senator Bill Sims, State Senate
Representative Stan Schlueter, House of Representatives

5

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE LAMPASAS COUNTY
UNDERGROUND WATER CONSERVATION DISTRICT

Water Development Policy Impact Statements for House Bill 3122 (H.B. 3122) relating to the creation, administration, powers, duties, operation, and financing of the Lampasas County Underground Water Conservation District follow.

Wells located within the limits of this proposed district which encompasses all of the territory located within Lampasas County, primarily utilize the Trinity Group aquifer, however, the Marble Falls Limestone aquifer yields a limited amount of ground water in the southwest part of the county. Additionally, the Ellenburger-San Saba and the Hickory Sandstone aquifers contain usable quality water in the same area, but at considerable depth. Available data do not indicate that there is hydrogeologic justification for the proposed district boundaries. Lampasas County has been included in one of the Critical Area ground water studies currently underway. These studies are being conducted by the Commission and the Board under Subchapter C, Chapter 52, Texas Water Code.

H.B. 3122 provides that the proposed district would have all the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. Except as otherwise provided by Subchapter B, Section 52.022 and this bill, the provisions found in Chapter 51, Subchapter B, Texas Water Code, for creating water control and improvement districts also apply to the creation of underground water conservation districts to the extent that those provisions may be made applicable. Specific impact statements related to required headings follow.

- 1) **Population projections** - The proposed District is coterminous with the boundaries of Lampasas County. The Board's current projected population for Lampasas County indicates an anticipated increase in population ranging from 12,315 to 15,969 over the next 20 years.
- 2) **District finances** - In accordance with Chapter 52, Texas Water Code, the district may issue and sell bonds, and levy ad valorem taxes to pay for all or part of the bonds and for the district's maintenance. The tax rate is unlimited for the payment of bonds issued by the district. The tax rate shall not exceed 50 cents on each \$100 of assessed valuation for maintenance taxes. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.
- 3) **Board of directors & powers** - This proposed district is to be governed by a board of five directors composed of the county judge and the four county commissioners. The county judge is the chairman of the board of directors. The county judge and the county commissioners serve as directors as an additional duty of service on the commissioners court. These directors shall serve as the temporary board of directors. The temporary board shall call and hold an election to confirm the establishment of the district. This board may not include a proposition on the ballot to levy and collect a property tax in the district. If the district is created at the election, the temporary directors, at the time the vote is canvassed, shall become the regular directors of the district. Section 41.001(a), Election Code, does not apply to the confirmation election; however, except as provided by this section, a confirmation election must be conducted as provided by Sections 52.058(b)-(g), Texas Water Code, and the Election Code.

Since the bill proposes the creation of an underground water conservation district, it will have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapters 50 and 52, Texas Water Code, applicable to those districts created under Article XVI, Section 59 of the Texas

Constitution. These will primarily include the making and enforcement of rules for conserving, preserving, protecting, recharging, controlling subsidence, and preventing the waste of water of an underground water reservoir. This act prevails over any provision of general law that is in conflict or inconsistent with it. No special or additional powers or duties are authorized by the bill.

- 4) **Effect on Texas Water Development Board's water plan** - The Board finds the creation of the District agrees with the State Water Plan objective of local groundwater management to promote more efficient use of groundwater resources.
- 5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Section 50.001 through 50.106, Texas Water Code, as well as the general reporting requirements mandated by the Texas Water Commission.

Annually, the district shall make available to the Commission information that it acquires concerning underground water resources within its jurisdiction. The district shall also provide information to the Commission concerning its plans and activities in conserving and protecting underground water resources (Section 52.173).

Issuance of bonds and notes authorized for certain items must be approved by the Commission in the manner provided for bonds of municipal utility districts under Section 54.516 of Chapter 54, Texas Water Code. These include those authorized to: 1) erect or construct dams or to drain lakes, draws, depressions, and creeks; and 2) install pumps and other equipment.

- 6) **Eminent domain power** - This district may exercise this power to acquire any land or other property necessary to carry out this act.

- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.
- 8) **Adequacy of the boundary description** - The district includes all of the area located within Lampasas County, therefore, the boundary description is adequate. There appears to be no conflict between the boundaries of this district and other existing districts.
- 9) **Comment on powers and duties different from similar types of districts** - This bill proposes the creation of an underground water conservation district, and as such it will be given all of the powers that are normally associated with Chapters 50 and 52, Texas Water Code, related to these districts. In terms of powers and duties, this district will not differ significantly from similar types of districts. However, the district, as proposed in this bill, does differ significantly in the composition of its board of directors. The fact that the directors of the district are also the county judge and county commissioners of Lampasas County may cause a potential conflict with the constitutional prohibition against dual office holding and the common laws doctrine of incompatibility.

The Commission offers the following comments related to the bill.

Subsection 9(b) prohibits the temporary board from proposing a property tax in the confirmation election. The legislative intent of this subsection is unclear as the board has the authority under Chapter 52, Texas Water Code, to levy ad valorem taxes without voter approval.

Lampasas County had the option to join an underground water conservation district, the Fox Crossing Water District following enactment of its creation legislation (Ch. 779, [General and Special Laws of the 69th Legislature, 1985]) but the confirmation election did not carry (successful in Mills County, also unsuccessful in San Saba County).

ADOPTED

MAY 16 1989

Betty Messing
Chief Clerk
House of Representatives

COMMITTEE AMENDMENT NO. 1

BY Yost

1 Amend H.B. 3122 as follows:

2 (1) On page 1, line 7, strike "Lampasas County" and
3 substitute "Saratoga".

4 (2) On page 1, line 16, strike "Lampasas County" and
5 substitute "Saratoga".

HOUSE ENGROSSMENT

89 MAY 16 PM 11:38
HOUSE OF REPRESENTATIVES

By Schlueter

H.B. No. 3122

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation, administration, powers, duties,
3 operation, and financing of the Saratoga Underground Water
4 Conservation District.

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

6 SECTION 1. CREATION. (a) An underground water conservation
7 district, to be known as the Saratoga Underground Water
8 Conservation District, is created in Lampasas County, subject to
9 approval at a confirmation election under Section 9 of this Act.
10 The district is a governmental agency and a body politic and
11 corporate.

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

15 SECTION 2. DEFINITION. In this Act, "district" means the
16 Saratoga Underground Water Conservation District.

17 SECTION 3. BOUNDARIES. The district includes all the
18 territory located within Lampasas County.

19 SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature
20 finds that the boundaries of the district form a closure.

21 SECTION 5. FINDING OF BENEFIT. All of the land and other
22 property included within the boundaries of the district will be
23 benefited by the works and projects that are to be accomplished by
24 the district under powers conferred by Article XVI, Section 59, of

1 the Texas Constitution. The district is created to serve a public
2 use and benefit.

3 SECTION 6. POWERS. (a) The district has all of the rights,
4 powers, privileges, authority, functions, and duties provided by
5 the general law of this state, including Chapters 50 and 52, Water
6 Code, applicable to underground water conservation districts
7 created under Article XVI, Section 59, of the Texas Constitution.
8 This Act prevails over any provision of general law that is in
9 conflict or inconsistent with this Act.

10 (b) The rights, powers, privileges, authority, functions,
11 and duties of the district are subject to the continuing right of
12 supervision of the state to be exercised by and through the Texas
13 Water Commission.

14 SECTION 7. BOARD OF DIRECTORS. (a) The district is
15 governed by a board of five directors composed of the county judge
16 and the county commissioners of Lampasas County.

17 (b) The county judge is the chairman of the board of
18 directors.

19 (c) The county judge and each county commissioner serves as
20 a director as an additional duty of service on the commissioners
21 court.

22 SECTION 8. TEMPORARY DIRECTORS. The county judge and the
23 county commissioners of Lampasas County shall serve as the
24 temporary board of directors.

25 SECTION 9. CONFIRMATION ELECTION. (a) The temporary board
26 of directors shall call and hold an election to confirm
27 establishment of the district.

1 (b) At the confirmation election, the temporary board of
2 directors may not include a proposition on the ballot to levy and
3 collect a property tax in the district.

4 (c) If the district is created at the election, the
5 temporary directors, at the time the vote is canvassed, shall
6 become the regular directors of the district.

7 (d) Section 41.001(a), Election Code, does not apply to a
8 confirmation election held as provided by this section.

9 (e) Except as provided by this section, a confirmation
10 election must be conducted as provided by Sections 52.058(b)-(g),
11 Water Code, and the Election Code.

12 SECTION 10. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

13 (a) The proper and legal notice of the intention to introduce this
14 Act, setting forth the general substance of this Act, has been
15 published as provided by law, and the notice and a copy of this Act
16 have been furnished to all persons, agencies, officials, or
17 entities to which they are required to be furnished by the
18 constitution and other laws of this state, including the governor,
19 who has submitted the notice and Act to the Texas Water Commission.

20 (b) The Texas Water Commission has filed its recommendations
21 relating to this Act with the governor, lieutenant governor, and
22 speaker of the house of representatives within the required time.

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

27 SECTION 11. EMERGENCY. The importance of this legislation

1 and the crowded condition of the calendars in both houses create an
2 emergency and an imperative public necessity that the
3 constitutional rule requiring bills to be read on three several
4 days in each house be suspended, and this rule is hereby suspended,
5 and that this Act take effect and be in force from and after its
6 passage, and it is so enacted.



STAN SCHLUETER
STATE REPRESENTATIVE

CHAIRMAN
CALENDARS
COMMITTEE

WAYS AND MEANS
GOVERNMENT ORGANIZATION
LEGISLATIVE COUNCIL

April 26, 1989

Honorable Terral Smith
Committee on Natrual Resources
Room 232
Reagan Building, HAND-DELIVER

Dear Terral:

In response to your request for an Author's Fiscal Statement on House Bill 3112, I have determined the following:

1. COST TO STATE GOVERNMENT: No fiscal implication to the State is anticipated.
2. COST TO LAMPASAS COUNTY GOVERNMENT: As provided in the bill, the County would create the Lampasas County Underground Water District. If a special election is called the cost would be approximately \$2800.00. If the election is held during a previously called election, the additional cost would be negligible.
3. FISCAL YEAR PROJECTIONS:
1989...ananticipated cost \$2800.00
1990...no additional cost anticipated
1991...no additional cost anticipated
1992...no additional cost anticipated
1993...no additional cost anticipated

If you need additional information, please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stan Schlueter", written over the typed name.

STAN SCHLUETER
CHAIRMAN
CALENDARS COMMITTEE

SS:cj

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 27, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives
P.O. Box 2910
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 3122) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Lampasas County Underground Water Conservation District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

A handwritten signature in cursive script that reads "Allen Beinke".

Allen Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Senator Bill Sims, State Senate
Representative Stan Schlueter, House of Representatives

2

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE LAMPASAS COUNTY
UNDERGROUND WATER CONSERVATION DISTRICT

Water Development Policy Impact Statements for House Bill 3122 (H.B. 3122) relating to the creation, administration, powers, duties, operation, and financing of the Lampasas County Underground Water Conservation District follow.

Wells located within the limits of this proposed district which encompasses all of the territory located within Lampasas County, primarily utilize the Trinity Group aquifer, however, the Marble Falls Limestone aquifer yields a limited amount of ground water in the southwest part of the county. Additionally, the Ellenburger-San Saba and the Hickory Sandstone aquifers contain usable quality water in the same area, but at considerable depth. Available data do not indicate that there is hydrogeologic justification for the proposed district boundaries. Lampasas County has been included in one of the Critical Area ground water studies currently underway. These studies are being conducted by the Commission and the Board under Subchapter C, Chapter 52, Texas Water Code.

H.B. 3122 provides that the proposed district would have all the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. Except as otherwise provided by Subchapter B, Section 52.022 and this bill, the provisions found in Chapter 51, Subchapter B, Texas Water Code, for creating water control and improvement districts also apply to the creation of underground water conservation districts to the extent that those provisions may be made applicable. Specific impact statements related to required headings follow.

- 1) **Population projections** - The proposed District is coterminous with the boundaries of Lampasas County. The Board's current projected population for Lampasas County indicates an anticipated increase in population ranging from 12,315 to 15,969 over the next 20 years.
- 2) **District finances** - In accordance with Chapter 52, Texas Water Code, the district may issue and sell bonds, and levy ad valorem taxes to pay for all or part of the bonds and for the district's maintenance. The tax rate is unlimited for the payment of bonds issued by the district. The tax rate shall not exceed 50 cents on each \$100 of assessed valuation for maintenance taxes. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.
- 3) **Board of directors & powers** - This proposed district is to be governed by a board of five directors composed of the county judge and the four county commissioners. The county judge is the chairman of the board of directors. The county judge and the county commissioners serve as directors as an additional duty of service on the commissioners court. These directors shall serve as the temporary board of directors. The temporary board shall call and hold an election to confirm the establishment of the district. This board may not include a proposition on the ballot to levy and collect a property tax in the district. If the district is created at the election, the temporary directors, at the time the vote is canvassed, shall become the regular directors of the district. Section 41.001(a), Election Code, does not apply to the confirmation election; however, except as provided by this section, a confirmation election must be conducted as provided by Sections 52.058(b)-(g), Texas Water Code, and the Election Code.

Since the bill proposes the creation of an underground water conservation district, it will have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapters 50 and 52, Texas Water Code, applicable to those districts created under Article XVI, Section 59 of the Texas

- 2 -

4

Constitution. These will primarily include the making and enforcement of rules for conserving, preserving, protecting, recharging, controlling subsidence, and preventing the waste of water of an underground water reservoir. This act prevails over any provision of general law that is in conflict or inconsistent with it. No special or additional powers or duties are authorized by the bill.

- 4) **Effect on Texas Water Development Board's water plan** - The Board finds the creation of the District agrees with the State Water Plan objective of local groundwater management to promote more efficient use of groundwater resources.
- 5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Section 50.001 through 50.106, Texas Water Code, as well as the general reporting requirements mandated by the Texas Water Commission.

Annually, the district shall make available to the Commission information that it acquires concerning underground water resources within its jurisdiction. The district shall also provide information to the Commission concerning its plans and activities in conserving and protecting underground water resources (Section 52.173).

Issuance of bonds and notes authorized for certain items must be approved by the Commission in the manner provided for bonds of municipal utility districts under Section 54.516 of Chapter 54, Texas Water Code. These include those authorized to: 1) erect or construct dams or to drain lakes, draws, depressions, and creeks; and 2) install pumps and other equipment.

- 6) **Eminent domain power** - This district may exercise this power to acquire any land or other property necessary to carry out this act.

- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.
- 8) **Adequacy of the boundary description** - The district includes all of the area located within Lampasas County, therefore, the boundary description is adequate. There appears to be no conflict between the boundaries of this district and other existing districts.
- 9) **Comment on powers and duties different from similar types of districts** - This bill proposes the creation of an underground water conservation district, and as such it will be given all of the powers that are normally associated with Chapters 50 and 52, Texas Water Code, related to these districts. In terms of powers and duties, this district will not differ significantly from similar types of districts. However, the district, as proposed in this bill, does differ significantly in the composition of its board of directors. The fact that the directors of the district are also the county judge and county commissioners of Lampasas County may cause a potential conflict with the constitutional prohibition against dual office holding and the common laws doctrine of incompatibility.

The Commission offers the following comments related to the bill.

Subsection 9(b) prohibits the temporary board from proposing a property tax in the confirmation election. The legislative intent of this subsection is unclear as the board has the authority under Chapter 52, Texas Water Code, to levy ad valorem taxes without voter approval.

Lampasas County had the option to join an underground water conservation district, the Fox Crossing Water District following enactment of its creation legislation (Ch. 779, [General and Special Laws of the 69th Legislature, 1985]) but the confirmation election did not carry (successful in Mills County, also unsuccessful in San Saba County).

- A -

6

REQUEST FOR LOCAL & UNCONTESTED CALENDAR
PLACEMENT

Hon. Bill Sims, Chairman
Administration Committee

Sir:

Notice is hereby given that HB 3122, by: Schlueder/Dickson

was heard by the Committee on Natural Resources on 5-24, 1989,
and reported out with the recommendation that it be placed on the Local and Uncontested
Calendar.


Clerk of the reporting committee

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF
THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE
BILL OR RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE
COMMITTEE ON ADMINISTRATION, ROOM 419. PLEASE CALL 3-0350 IF YOU HAVE
ANY QUESTIONS. DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR
IS 5:00 P.M. FRIDAY.

SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

5-24-89
(date)/(time)

Sir:

We, your Committee on NATURAL RESOURCES to which was referred
HB 3122 by SCHLEETER have on MAY 24, 1989, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

- do pass and be printed
- do pass and be ordered not printed
- and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. yes no

A revised fiscal note was requested. yes no

An actuarial analysis was requested. yes no

Considered by subcommittee. yes no

Senate Sponsor of House Measure DICKSON

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Santiesteban, Chairman	✓			
Lyon, Vice Chairman	✓			
Armbrister	✓			
Bivins				✓
Brown	✓			
Carriker				✓
Montford				✓
Ratliff	✓			✓
Sims				✓
Uribe	✓			✓
Zaffirini				✓
TOTAL VOTES	6			5

Grace M. Clement COMMITTEE CLERK W. J. J. J. J. CHAIRMAN

1 By: Schlueter (Senate Sponsor - Dickson) H.B. No. 3122
2 (In the Senate - Received from the House May 17, 1989;
3 May 18, 1989, read first time and referred to Committee on Natural
4 Resources; May 25, 1989, reported favorably by the following vote:
5 Yeas 6, Nays 0; May 25, 1989, sent to printer.)

6 COMMITTEE VOTE

	Yea	Nay	PNV	Absent
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

Santiesteban	x			
Lyon	x			
Armbrister	x			
Bivins				x
Brown	x			
Carriker				x
Montford				x
Ratliff	x			
Sims				x
Uribe	x			
Zaffirini				x

19 A BILL TO BE ENTITLED
20 AN ACT

21 relating to the creation, administration, powers, duties,
22 operation, and financing of the Saratoga Underground Water
23 Conservation District.

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

25 SECTION 1. CREATION. (a) An underground water conservation
26 district, to be known as the Saratoga Underground Water
27 Conservation District, is created in Lampasas County, subject to
28 approval at a confirmation election under Section 9 of this Act.
29 The district is a governmental agency and a body politic and
30 corporate.

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

34 SECTION 2. DEFINITION. In this Act, "district" means the
35 Saratoga Underground Water Conservation District.

36 SECTION 3. BOUNDARIES. The district includes all the
37 territory located within Lampasas County.

38 SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature
39 finds that the boundaries of the district form a closure.

40 SECTION 5. FINDING OF BENEFIT. All of the land and other
41 property included within the boundaries of the district will be
42 benefited by the works and projects that are to be accomplished by
43 the district under powers conferred by Article XVI, Section 59, of
44 the Texas Constitution. The district is created to serve a public
45 use and benefit.

46 SECTION 6. POWERS. (a) The district has all of the rights,
47 powers, privileges, authority, functions, and duties provided by
48 the general law of this state, including Chapters 50 and 52, Water
49 Code, applicable to underground water conservation districts
50 created under Article XVI, Section 59, of the Texas Constitution.
51 This Act prevails over any provision of general law that is in
52 conflict or inconsistent with this Act.

53 (b) The rights, powers, privileges, authority, functions,
54 and duties of the district are subject to the continuing right of
55 supervision of the state to be exercised by and through the Texas
56 Water Commission.

57 SECTION 7. BOARD OF DIRECTORS. (a) The district is
58 governed by a board of five directors composed of the county judge
59 and the county commissioners of Lampasas County.

60 (b) The county judge is the chairman of the board of
61 directors.

62 (c) The county judge and each county commissioner serves as
63 a director as an additional duty of service on the commissioners
64 court.

65 SECTION 8. TEMPORARY DIRECTORS. The county judge and the
66 county commissioners of Lampasas County shall serve as the

1 temporary board of directors.

2 SECTION 9. CONFIRMATION ELECTION. (a) The temporary board
3 of directors shall call and hold an election to confirm
4 establishment of the district.

5 (b) At the confirmation election, the temporary board of
6 directors may not include a proposition on the ballot to levy and
7 collect a property tax in the district.

8 (c) If the district is created at the election, the
9 temporary directors, at the time the vote is canvassed, shall
10 become the regular directors of the district.

11 (d) Section 41.001(a), Election Code, does not apply to a
12 confirmation election held as provided by this section.

13 (e) Except as provided by this section, a confirmation
14 election must be conducted as provided by Sections 52.058(b)-(g),
15 Water Code, and the Election Code.

16 SECTION 10. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

17 (a) The proper and legal notice of the intention to introduce this
18 Act, setting forth the general substance of this Act, has been
19 published as provided by law, and the notice and a copy of this Act
20 have been furnished to all persons, agencies, officials, or
21 entities to which they are required to be furnished by the
22 constitution and other laws of this state, including the governor,
23 who has submitted the notice and Act to the Texas Water Commission.

24 (b) The Texas Water Commission has filed its recommendations
25 relating to this Act with the governor, lieutenant governor, and
26 speaker of the house of representatives within the required time.

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

31 SECTION 11. EMERGENCY. The importance of this legislation

32 and the crowded condition of the calendars in both houses create an
33 emergency and an imperative public necessity that the
34 constitutional rule requiring bills to be read on three several
35 days in each house be suspended, and this rule is hereby suspended,
36 and that this Act take effect and be in force from and after its
37 passage, and it is so enacted.

38 * * * * *

39 Austin, Texas
40 May 25, 1989

41 Hon. William P. Hobby
42 President of the Senate

43 Sir:

44 We, your Committee on Natural Resources to which was referred H.B.
45 No. 3122, have had the same under consideration, and I am
46 instructed to report it back to the Senate with the recommendation
47 that it do pass and be printed.

48 Santiesteban, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 20, 1989

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

In Re: House Bill No. 3122,
as engrossed
By: Schlueter

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 3122, as engrossed (relating to the creation, administration, powers, duties, operation, and financing of the Saratoga Underground 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 implication on units of local government.

Source: LBB Staff: JO, JWH, AL, SKM, CKM



STAN SCHLUETER
STATE REPRESENTATIVE

CHAIRMAN
CALENDARS
COMMITTEE

WAYS AND MEANS
GOVERNMENT ORGANIZATION
LEGISLATIVE COUNCIL

April 26, 1989

Honorable Terral Smith
Committee on Natrual Resources
Room 232
Reagan Building, HAND-DELIVER

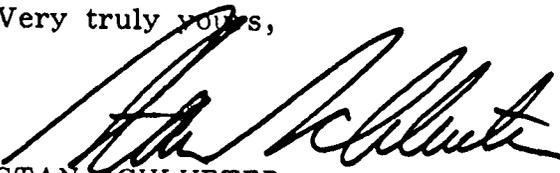
Dear Terral:

In response to your request for an Author's Fiscal Statement on House Bill 312, I have determined the following:

1. COST TO STATE GOVERNMENT: No fiscal implication to the State is anticipated.
2. COST TO LAMPASAS COUNTY GOVERNMENT: As provided in the bill, the County would create the Lampasas County Underground Water District. If a special election is called the cost would be approximately \$2800.00. If the election is held during a previously called election, the additional cost would be negligible.
3. FISCAL YEAR PROJECTIONS:
1989...annticipated cost \$2800.00
1990...no additional cost anticipated
1991...no additional cost anticipated
1992...no additional cost anticipated
1993...no additional cost anticipated

If you need additional information, please let me know.

Very truly yours,


STAN SCHLUETER
CHAIRMAN
CALENDARS COMMITTEE

SS:cj

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

TO: The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Water Commission copies of House Bill No. 3122, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Water Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

APR 12 1989

Date transmitted to
Governor's Office

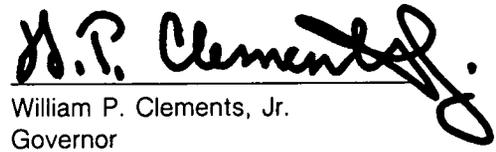

Betty Murray, Chief Clerk
House of Representatives

TO: Texas Water Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of House Bill No. 3122, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

4/14/89 AK
Date transmitted to
Texas Water Commission


William P. Clements, Jr.
Governor

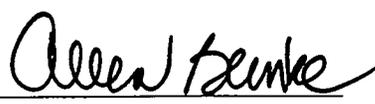
TO: The Honorable Gibson D. "Gib" Lewis
Speaker of the House

The Honorable William P. Hobby
President of the Senate

The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Water Commission on House Bill No. _____, in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.


Allen Beinke
Executive Director

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 27, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives
P.O. Box 2910
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 3122) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Lampasas County Underground Water Conservation District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

A handwritten signature in cursive script that reads "Allen Beinke".

Allen Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Senator Bill Sims, State Senate
Representative Stan Schlueter, House of Representatives

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE LAMPASAS COUNTY
UNDERGROUND WATER CONSERVATION DISTRICT

Water Development Policy Impact Statements for House Bill 3122 (H.B. 3122) relating to the creation, administration, powers, duties, operation, and financing of the Lampasas County Underground Water Conservation District follow.

Wells located within the limits of this proposed district which encompasses all of the territory located within Lampasas County, primarily utilize the Trinity Group aquifer, however, the Marble Falls Limestone aquifer yields a limited amount of ground water in the southwest part of the county. Additionally, the Ellenburger-San Saba and the Hickory Sandstone aquifers contain usable quality water in the same area, but at considerable depth. Available data do not indicate that there is hydrogeologic justification for the proposed district boundaries. Lampasas County has been included in one of the Critical Area ground water studies currently underway. These studies are being conducted by the Commission and the Board under Subchapter C, Chapter 52, Texas Water Code.

H.B. 3122 provides that the proposed district would have all the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Texas Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. Except as otherwise provided by Subchapter B, Section 52.022 and this bill, the provisions found in Chapter 51, Subchapter B, Texas Water Code, for creating water control and improvement districts also apply to the creation of underground water conservation districts to the extent that those provisions may be made applicable. Specific impact statements related to required headings follow.

- 1) **Population projections** - The proposed District is coterminous with the boundaries of Lampasas County. The Board's current projected population for Lampasas County indicates an anticipated increase in population ranging from 12,315 to 15,969 over the next 20 years.
- 2) **District finances** - In accordance with Chapter 52, Texas Water Code, the district may issue and sell bonds, and levy ad valorem taxes to pay for all or part of the bonds and for the district's maintenance. The tax rate is unlimited for the payment of bonds issued by the district. The tax rate shall not exceed 50 cents on each \$100 of assessed valuation for maintenance taxes. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.
- 3) **Board of directors & powers** - This proposed district is to be governed by a board of five directors composed of the county judge and the four county commissioners. The county judge is the chairman of the board of directors. The county judge and the county commissioners serve as directors as an additional duty of service on the commissioners court. These directors shall serve as the temporary board of directors. The temporary board shall call and hold an election to confirm the establishment of the district. This board may not include a proposition on the ballot to levy and collect a property tax in the district. If the district is created at the election, the temporary directors, at the time the vote is canvassed, shall become the regular directors of the district. Section 41.001(a), Election Code, does not apply to the confirmation election; however, except as provided by this section, a confirmation election must be conducted as provided by Sections 52.058(b)-(g), Texas Water Code, and the Election Code.

Since the bill proposes the creation of an underground water conservation district, it will have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapters 50 and 52, Texas Water Code, applicable to those districts created under Article XVI, Section 59 of the Texas

Constitution. These will primarily include the making and enforcement of rules for conserving, preserving, protecting, recharging, controlling subsidence, and preventing the waste of water of an underground water reservoir. This act prevails over any provision of general law that is in conflict or inconsistent with it. No special or additional powers or duties are authorized by the bill.

- 4) **Effect on Texas Water Development Board's water plan** - The Board finds the creation of the District agrees with the State Water Plan objective of local groundwater management to promote more efficient use of groundwater resources.
- 5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Section 50.001 through 50.106, Texas Water Code, as well as the general reporting requirements mandated by the Texas Water Commission.

Annually, the district shall make available to the Commission information that it acquires concerning underground water resources within its jurisdiction. The district shall also provide information to the Commission concerning its plans and activities in conserving and protecting underground water resources (Section 52.173).

Issuance of bonds and notes authorized for certain items must be approved by the Commission in the manner provided for bonds of municipal utility districts under Section 54.516 of Chapter 54, Texas Water Code. These include those authorized to: 1) erect or construct dams or to drain lakes, draws, depressions, and creeks; and 2) install pumps and other equipment.

- 6) **Eminent domain power** - This district may exercise this power to acquire any land or other property necessary to carry out this act.

- 7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.
- 8) **Adequacy of the boundary description** - The district includes all of the area located within Lampasas County, therefore, the boundary description is adequate. There appears to be no conflict between the boundaries of this district and other existing districts.
- 9) **Comment on powers and duties different from similar types of districts** - This bill proposes the creation of an underground water conservation district, and as such it will be given all of the powers that are normally associated with Chapters 50 and 52, Texas Water Code, related to these districts. In terms of powers and duties, this district will not differ significantly from similar types of districts. However, the district, as proposed in this bill, does differ significantly in the composition of its board of directors. The fact that the directors of the district are also the county judge and county commissioners of Lampasas County may cause a potential conflict with the constitutional prohibition against dual office holding and the common laws doctrine of incompatibility.

The Commission offers the following comments related to the bill.

Subsection 9(b) prohibits the temporary board from proposing a property tax in the confirmation election. The legislative intent of this subsection is unclear as the board has the authority under Chapter 52, Texas Water Code, to levy ad valorem taxes without voter approval.

Lampasas County had the option to join an underground water conservation district, the Fox Crossing Water District following enactment of its creation legislation (Ch. 779, [General and Special Laws of the 69th Legislature, 1985]) but the confirmation election did not carry (successful in Mills County, also unsuccessful in San Saba County).

1 the Texas Constitution. The district is created to serve a public
2 use and benefit.

3 SECTION 6. POWERS. (a) The district has all of the rights,
4 powers, privileges, authority, functions, and duties provided by
5 the general law of this state, including Chapters 50 and 52, Water
6 Code, applicable to underground water conservation districts
7 created under Article XVI, Section 59, of the Texas Constitution.
8 This Act prevails over any provision of general law that is in
9 conflict or inconsistent with this Act.

10 (b) The rights, powers, privileges, authority, functions,
11 and duties of the district are subject to the continuing right of
12 supervision of the state to be exercised by and through the Texas
13 Water Commission.

14 SECTION 7. BOARD OF DIRECTORS. (a) The district is
15 governed by a board of five directors composed of the county judge
16 and the county commissioners of Lampasas County.

17 (b) The county judge is the chairman of the board of
18 directors.

19 (c) The county judge and each county commissioner serves as
20 a director as an additional duty of service on the commissioners
21 court.

22 SECTION 8. TEMPORARY DIRECTORS. The county judge and the
23 county commissioners of Lampasas County shall serve as the
24 temporary board of directors.

25 SECTION 9. CONFIRMATION ELECTION. (a) The temporary board
26 of directors shall call and hold an election to confirm
27 establishment of the district.

1 (b) At the confirmation election, the temporary board of
2 directors may not include a proposition on the ballot to levy and
3 collect a property tax in the district.

4 (c) If the district is created at the election, the
5 temporary directors, at the time the vote is canvassed, shall
6 become the regular directors of the district.

7 (d) Section 41.001(a), Election Code, does not apply to a
8 confirmation election held as provided by this section.

9 (e) Except as provided by this section, a confirmation
10 election must be conducted as provided by Sections 52.058(b)-(g),
11 Water Code, and the Election Code.

12 SECTION 10. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

13 (a) The proper and legal notice of the intention to introduce this
14 Act, setting forth the general substance of this Act, has been
15 published as provided by law, and the notice and a copy of this Act
16 have been furnished to all persons, agencies, officials, or
17 entities to which they are required to be furnished by the
18 constitution and other laws of this state, including the governor,
19 who has submitted the notice and Act to the Texas Water Commission.

20 (b) The Texas Water Commission has filed its recommendations
21 relating to this Act with the governor, lieutenant governor, and
22 speaker of the house of representatives within the required time.

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

27 SECTION 11. EMERGENCY. The importance of this legislation

1 and the crowded condition of the calendars in both houses create an
2 emergency and an imperative public necessity that the
3 constitutional rule requiring bills to be read on three several
4 days in each house be suspended, and this rule is hereby suspended,
5 and that this Act take effect and be in force from and after its
6 passage, and it is so enacted.

H.B. No. 3122

President of the Senate

Speaker of the House

I certify that H.B. No. 3122 was passed by the House on May 16, 1989, by the following vote: Yeas 145, Nays 0.

Chief Clerk of the House

I certify that H.B. No. 3122 was passed by the Senate on May 27, 1989, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED:

Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 3122⁽¹⁾ was passed by the House
on May 16⁽²⁾, 1989, by the following vote:

Yeas 145⁽³⁾, Nays 0⁽⁴⁾

Chief Clerk of the House

I certify that H.B. No. 3122⁽¹⁾ was passed by the Senate
on May 27⁽⁵⁾, 1989, by the following vote:

Yeas 31⁽⁶⁾, Nays 0⁽⁷⁾

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: 'A;CT25;

H. B. No. 3122

By Robluter

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Lampasas County Underground Water Conservation District.

- APR 12 1989 1. Filed with the Chief Clerk.
- APR 18 1989 2. Read first time and Referred to Committee on Natural Resources
- 5-3-89 3. Reported favorably (as amended) and sent to Printer at 3:30 pm
(as substituted) MAY 8 1989
- MAY 9 1989 4. Printed and distributed at 2:43pm
- MAY 10 1989 5. Sent to Committee on Calendars at 4c 9:51am
- MAY 16 1989 6. Read second time (amended) passed to third reading (failed) by (Non-Record Vote)
(Record Vote of _____ years, _____ nays, _____ present, not voting).
- _____ 7. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ years, _____ nays, and _____ present, not voting).
- _____ 8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ years, _____ nays, and _____ present, not voting.

- MAY 16 1989 9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of 145 years, 0 nays, 0 present, not voting).
- _____ 10. Caption ordered amended to conform to body of bill.
- _____ 11. Motion to reconsider and table the vote by which H. B. _____ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ years, _____ nays, and _____ present, not voting).
- MAY 16 1989 12. Ordered Engrossed at 12:45 pm
- MAY 16 1989 13. Engrossed.
- MAY 16 1989 14. Returned to Chief Clerk at 11:38 pm
- MAY 17 1989 15. Sent to Senate.
- _____ 16. Received from the House
- MAY 18 1989 17. Read, referred to Committee on NATURAL RESOURCES
- MAY 25 1989 18. Reported favorably
- _____ 19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
- _____ 20. Ordered not printed.
- _____ 21. Regular order of business suspended by _____
(a viva voce vote.)
(_____ years, _____ nays.)

Betty Murray
Chief Clerk of the House

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

MAY 27 1989

Laid before Senate

23. Read second time _____ passed to third reading by:
(a viva voce vote.)
_____ yeas, _____ nays.)

24. Caption ordered amended to conform to body of bill.

MAY 27 1989

25. Senate and Constitutional 3-Day Rules suspended by vote of 30 yeas,
1 nays to place bill on third reading and final passage.

MAY 27 1989

26. Read third time and passed by
(a viva voce vote.)
31 yeas, 0 nays.)

OTHER ACTION:

OTHER ACTION:

Betty King
Secretary of the Senate

MAY 27 1989

27. Returned to the House.

MAY 27 1989

28. Received from the Senate (~~with amendments.~~)
(~~as substituted.~~)

29. House (Concurred) (Refused to Concur) in Senate (Amendments) (Substitute) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 27 1989

32. Ordered Enrolled at 12:00 pm

HOUSE OF REPRESENTATIVES

89 MAY 16 PM 11:38

HOUSE OF REPRESENTATIVES

89 MAY -9 PM 2:43

MR

22