A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, and
funding of the Headwaters Underground Water Conservation
District.

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

SECTION 1. CREATION. (a) An underground water conservation
district, to be known as the Headwaters Underground Water
Conservation District, is created in Kerr County. The district is
a governmental agency and a body politic and corporate.

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

SECTION 2. DEFINITIONS. In this Act:

(1) "District" means the Headwaters Underground Water
Conservation District.

(2) "Board" means the board of directors of the
Headwaters Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are
coextensive with the boundaries of Kerr County.

SECTION 4. FINDING OF BENEFIT. All of the land and other
property included within the boundaries of the district will be
benefited by the works and projects that are to be accomplished by
the district under powers conferred by Article XVI, Section 59, of
the Texas Constitution. The district is created to serve a public
SECTION 5. POWERS. (a) Except to the extent of any conflict with this Act or as specifically limited by this Act, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

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

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of directors.

(b) The county judge and county commissioners of Kerr County serve ex officio as directors.

(c) The county judge serves as the chairman of the board of directors.

(d) A director serves without compensation but is entitled to reimbursement for actual expenses incurred in the performance of activities related to district business, including education, travel, and seminars.

SECTION 7. FUNDING. Maintenance and operating expenses of the district may be paid only from fees collected by the district and the general revenues of Kerr County.

SECTION 8. TAXING AUTHORITY. The district may not levy any
tax without the approval of the qualified voters of the district.

This section does not limit the power of the Commissioners Court of
Kerr County to raise general revenue taxes in support of the
county's general revenue fund or in support of the district.

SECTION 9. ADDITIONAL AUTHORITY. The Texas Water Commission
may by order designate the district as the local enforcement agent
for the commission within the geographic boundaries of the
district, delegating those powers regarding underground waters
located in the district that the commission deems proper.

SECTION 10. PROHIBITED ACTS. The district may not sell,
donate, lease, or otherwise grant rights in or to the underground
waters located in the district.

SECTION 11. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.
(a) The proper and legal notice of the intention to introduce this
Act, setting forth the general substance of this Act, has been
published as provided by law, and the notice and a copy of this Act
have been furnished to all persons, agencies, officials, or
entities to which they are required to be furnished by the
constitution and other laws of this state, including the governor,
who has submitted the notice to the Texas Water Commission.

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

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

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

THE STATE OF TEXAS:
THE COUNTY OF KERR:

James L. Gray, publisher of The Kerrville Times, a newspaper published in the County of Kerr, State of Texas, do swear that the foregoing and attached citation was published in Kerrville, Kerr County, Texas, a newspaper of general circulation published regularly in said Kerr County, Texas for more than one year next before this date on the following dates to wit:

Jan 25, 1991

Jan ___, 19___

Jan ___, 19___

Jan ___, 19___

A printed copy of said writ as it was published is attached.

James L. Gray
Publisher of
THE KERRVILLE TIMES, KERR CO. KERRVILLE

Sworn to and subscribed before me by the said James L. Gray, Publisher, of The Kerrville Times, on this the 29th day of January, A. D. 1991, to certify which witness my hand and seal of office.

Natalee L. Joy
Notary Public, Kerr County, Texas

NATALEE L. JOY
Notary Public, State of Texas
My Comm. Exp. 4-5-94

PRINTER'S FEE
By Hilderbran

Substitute the following for H.B. No. 1463:

By Yost

C.S.H.B. No. 1463

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

SECTION 2. DEFINITIONS. In this Act, "district" means the Headwaters Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Kerr County.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.
SECTION 5. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

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

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 8.

(c) Initial directors serve until permanent directors are elected under Section 9.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Sections 51.078 and 51.079, Water Code.

(f) A director serves until the director's successor has qualified.

SECTION 7. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

(1) George Holekamp
(2) Madge Parmley Reid
(3) Thomas Syfan
(4) William Cowden

(5) Tobin Parker

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 8. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors.

(b) A person who desires to be a candidate for the office of initial director may file an application with the temporary board to have the candidate's name printed on the ballot as provided by Section 51.075, Water Code.

(c) At the confirmation and initial directors' election, the temporary board of directors shall have the names of the five persons serving as temporary directors placed on the ballot together with the name of any candidate filing for the office of director as provided by Subsection (b) of this section and blank spaces to write in the names of other persons. If the district is created at the election, the temporary directors, at the time the vote is canvassed, shall declare the five persons who receive the most votes to be elected as the initial directors and shall include the results of the directors' election in its election report to the Texas Water Commission.
(d) Section 41.001(a), Election Code, does not apply to a
confirmation and initial directors' election held as provided by
this section.

(e) Except as provided by this section, a confirmation and
initial directors' election must be conducted as provided by
Sections 52.059(b)-(g), Water Code, and the Election Code.

SECTION 9. ELECTION OF DIRECTORS. On the first Saturday in
May of the second year after the year in which the district is
authorized to be created at a confirmation election, an election
shall be held in the district for the election of two directors who
shall each serve two-year terms and three directors who shall each
serve four-year terms. Thereafter, on the same date in each
subsequent second year, the appropriate number of directors shall
be elected to the board.

SECTION 10. ADDITIONAL AUTHORITY. (a) The district shall
contract with Kerr County or a river authority whose boundaries are
coextensive with the district's boundaries for services available
from the county or river authority that directly relate to the
district's activities. Any party to a contract required by this
subsection may petition the commission to resolve any dispute
arising out of the contract.

(b) The district may contract with a state agency or another
governmental body to carry out any function of the district.

SECTION 11. PROHIBITED ACTS. The district may not sell,
donate, lease, or otherwise grant rights in or to underground water
located in the district.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.
(a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Water Commission.

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

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

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

The Honorable Gib Lewis
Speaker of the House of Representatives

Sir:

We, your COMMITTEE ON NATURAL RESOURCES, to whom was referred HB 1463 have had the same under consideration and beg to report (measure) back with the recommendation that it

( ) do pass, without amendment.
( ) do pass, with amendment(s).
( x) 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 author’s fiscal statement was requested. ( x) yes ( ) no
A criminal justice policy impact statement was requested. ( ) yes ( x) no
An equalized educational funding impact statement was requested. ( ) yes ( x) no
An actuarial analysis was requested. ( ) yes ( x) no
A water development policy impact statement was requested. ( x) yes ( ) no
A federal funds impact statement was requested. ( ) yes ( x) no

( x) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

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

House Sponsor of Senate Measure

The measure was reported from Committee by the following vote:

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<tr>
<th>AYE</th>
<th>NAY</th>
<th>PNV</th>
<th>ABSENT</th>
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<tbody>
<tr>
<td>Lewis, R., Ch.</td>
<td>x</td>
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<td>Willy, V.C.</td>
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<td>Collazo, C.B.O.</td>
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<td>Bosse</td>
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Total  6 aye
0 nay
0 present, not voting
3 absent

[Signatures]

CHAIRMAN

COMMITTEE COORDINATOR
HB 1463
By: Hilderbran
CShB 1463
By: Yost

BILL ANALYSIS

BACKGROUND

Kerr County lies within the Hill Country Critical Area designated by the Texas Water Commission on June 6, 1990. The county is mainly composed of farming and ranching communities. The citizens of the county feel that the creation of an underground water district will aid in the regulation of water use, and request that the district be defined by the county boundaries.

PURPOSE OF THE BILL

As proposed, HB 1463 creates the Headwaters Underground Conservation District.

SECTION BY SECTION ANALYSIS

SECTION 1. Creates the district.

SECTION 2. Defines "district."

SECTION 3. Sets the boundaries of the district coextensive with the boundaries of Kerr County.

SECTION 4. Legislative findings of public use and benefit.

SECTION 5. Provides for powers of the district to accord with Article XVI, Section 59, of the Texas Constitution, and Chapters 50 and 52, Water Code.

SECTION 6. Provides for a board of 5 directors, a temporary board, an initial board, a permanent board to serve staggered four-year terms, and for qualifications of directors.

SECTION 7. Names the temporary board, provides for the filling of vacancies.

SECTION 8. Provides for the confirmation and initial directors' election.

SECTION 9. Provides for the election of permanent directors.

SECTION 10. Provides for the district to contract with Kerr County or a river authority whose boundaries are coextensive with the district's boundaries for services directly related to the district's activities; allows for petition to the commission to resolve contract disputes, and provides the district may contract with a state agency to carry out any function of the district.

SECTION 11. Prohibits the district from selling, donating, or leasing water rights.

SECTION 12. States procedural requirements have been met in filing this bill.

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.

COMPARISON OF SUBSTITUTE TO ORIGINAL BILL

The substitute adds that the district is subject to a confirmation election, deletes a definition of "board," establishes a five director board and provides for temporary, initial, and permanent directors; provides for a confirmation election; eliminates provision from the original that the county judge and county commissioners serve as ex officio members of the board and the county judge serves as Chairman; eliminates the funding, taxation and designation of a local enforcement agent provisions from the original; and provides the district will enter into contracts with Kerr County or a river authority for services directly related to district activities and may contract with a state agency to carry out any function of the district.

SUMMARY OF COMMITTEE ACTION

On March 13 1991, HB 1463 was referred directly to the Subcommittee on Water Districts. Notice was posted in accordance with House Rules, and HB 1463 was heard in a public hearing of the subcommittee on March 19, 1991. Testimony was taken in favor of the bill. A resource witness was present on the bill. The motion to leave HB 1463 pending before the subcommittee carried without objection. HB 1463 was called up in the subcommittee on April 9, 1991. No witnesses were present on the bill. A substitute and an amendment to the substitute were offered and adopted without objection. The motion to report HB 1463, as substituted, favorably back to the full committee carried by a vote of 2 ayes, 0 nay, 0 PNV, and 1 absent. The subcommittee report on HB 1463 was taken up at a public hearing of the full committee on April 16, 1991. No witnesses were present on the bill. The substitute was offered and adopted without objection. The motion to report HB 1463, as substituted, favorably back to the full House with the recommendation that it be placed on the Local and Consent Calendar carried by a vote of 6 ayes, 0 nay, 0 PNV, and 3 absent.
March 12, 1991

The Honorable Ron Lewis
Chairman, Natural Resources Committee
Reagan 214

Re: Author’s Fiscal Statement. HB1463 (relating to the creation, administration, powers, duties, and funding of the Headwaters Underground Water Conservation District).

Sir:

In response to your request for an Author’s Fiscal Statement on HB1463, I have determined the following:

1. COST TO STATE GOVERNMENT: absolutely no fiscal implication is anticipated.
   A. The county judge and county commissioners of Kerr County serve ex officio as directors.

2. COST OF KERR COUNTY GOVERNMENT: funded through fees collected by the district and the general revenues of Kerr County:
   A. Actual expenses incurred in the performance of activities relate to district business, including education, travel and seminars.
   B. Maintenance and operating expenses of the district.
   C. The district may not levy any tax without the approval of the qualified voters of the district.

3. FISCAL YEAR PROJECTIONS:
   1991.....no cost is anticipated
   1992.....no cost is anticipated
   1993.....no cost is anticipated
   1994.....no cost is anticipated
   1995.....no cost is anticipated

Please let me know if I can be of any further assistance to you.

Sincerely,

[Signature]

Concho, Crockett, Edwards, Gillespie, Irion, Kerr, Kimble, Mason, Menard, Real, Schleicher, Sutton and Uvalde Counties
REQUEST FOR WATER DEVELOPMENT POLICY IMPACT STATEMENT  

HOUSE OF REPRESENTATIVES  
STATE OF TEXAS  

TO: Texas Water Commission  

SUBJECT: A Bill Relating to the Creation of a Conservation and Reclamation District  

This is to transmit to you a copy of H. B. No. 1463, a bill relating to the creation of a conservation and reclamation district, for preparation of a water development policy impact statement, under House Rule 4, Section 36.

March 1, 1991  
Date transmitted to  
Texas Water Commission  

Executive Director  
Texas Water Commission  

FOR CHIEF CLERK USE  

IMPACT STATEMENT RECEIVED FROM TEXAS WATER COMMISSION ON MAR 13 1991 date  

IMPACT STATEMENT DELIVERED TO COMMITTEE ON Natural Resources name of committee  

ON MAR 14 1991 date  
4:31 PM
March 11, 1991

The Honorable Gib Lewis
Speaker of the House of Representatives
State Capitol Building, Room 238
Austin, Texas 78701

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, Section 37.

H.B. 1463 by Hilderbran
Relating to the creation of the Headwaters Underground Water Conservation District

Dear Speaker Lewis:

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

Respectfully yours,

[Signature]
Allen Beinke
Executive Director

Enclosures
cc: Representative Lewis, Chairman
    House Natural Resources Committee
    Representative Hilderbran
Water Development Policy Impact Statement for House Bill 1463 (H.B. 1463) Regular Session, 72nd Legislature, relating to the creation, administration, powers, duties, operation, and financing of the Headwaters Underground Water Conservation District follow.

Wells located within the confines of this proposed district, which encompasses all of Kerr County, obtain their water principally from the Trinity Group aquifer which underlies the entire county. There appears to be no hydrogeologic justification for the determination of district boundaries. Kerr County lies entirely within a Water Commission designated Critical Area.

H.B. 1463 provides that the proposed district would have all of 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. Specific impact statements related to required headings follow.

1) **Population projections** - The boundaries of the proposed District are coterminous with the boundaries of Kerr County. In 1980, the population of Kerr County was 28,780 residents. The County's population growth pattern over the last ten years reflects a continuing increase in population with a 1990 population of 36,304 residents. The Board's current population projections for the County indicate that this trend will continue over the next 20 years with a population ranging from 50,675 to 54,467 by the year 2010.

2) **District finances** - H.B. 1463 authorizes the maintenance and operating expenses of the district to be paid from fees collected by the district and from the general revenues of Kerr County. The district is not authorized to levy any taxes without voter approval. The bill expressly does not limit the ability of the Commissioners
Court of Kerr County to raise general revenue taxes in support of the county’s general revenue fund or in support of the district.

3) **Board of directors & powers** - The proposed district is to be governed by a board of directors composed of the county judge and county commissioners of Kerr County. The county judge will serve as the chairman of the board of directors. The county judge and the county commissioners serve ex officio as directors.

H.B. 1463 does not require that an election be held to confirm the district.

The district 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 underground water conservation 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. The district would also have the authority to regulate spacing and production of water wells. This act prevails over any provision of general law that is in conflict or inconsistent with it.

4) **Effect on Texas Water Development Board’s water plan** - Approximately 43 percent of the County’s current water needs for the population, industries, and agriculture are met from local ground-water resources. The Board finds that creation of the proposed District agrees with the Board’s State Water Plan objective of promoting efficient use of ground-water resources and development and implementation of management programs for addressing local ground-water problems so as to enhance the availability of local ground-water supplies.

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 Sections 50.101 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).

There is a potential conflict in the bill’s general references to both Chapters 50 and 52 of the Water Code, with regard to issuance of bonds. Commission approval authority over the district’s bonds is questionable and should be clarified in the language of the bill. Chapter 52, Subchapter G, Texas Water Code would require Commission approval of bonds, but Chapter 50 exempts districts whose boundaries cover an entire county. These include bonds 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** - The power of eminent domain is authorized for this district as provided under general law for underground water conservation districts. The district’s use of this power is restricted to property within its boundaries.

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 bill provides that the district include all the area of Kerr County, therefore, the boundary description is adequate in terms of closure. All of Kerr County lies within the Hill Country Critical Area designated and delineated by the Texas Water Commission on June 6, 1990. There are two existing districts within Kerr County, the Kerr County (Center Point) Water Control and Improvement District and the Southeast Thompson Municipal Utility District. Both of these districts are financially dormant. Part of the county is within the Upper Guadalupe River Authority. There are no apparent conflicts between the boundaries of this district and other existing entities.
9) Comment on powers and duties different from similar types of districts -
This bill proposes the creation of an underground water conservation
district, with the powers that are given in 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 Kerr County may create a conflict with the
constitutional prohibition against dual office holding and the common law
document of incompatibility. The constitutional prohibition is not
violated as long as the directors do not receive compensation from both
offices; other conflicts may occur, however, that would make the two
offices incompatible.

Two other non-standard provisions are included in H.B. 1463. Section 9
of the bill provides that the Texas Water Commission may by order
designate the district as the local enforcement agent for the commission
within the geographic boundaries of the district, delegating those powers
regarding underground waters located in the district that the commission
deems proper; and Section 10 prohibits the district from selling,
donating, leasing, or otherwise granting rights in or to the underground
waters located in the district.

The Commission offers the following comments related to this bill.

H.B. 1463 does not require voter confirmation of the creation of the
proposed district. The Commission notes that while the proposed district
is not provided with the authority to levy taxes, the district does have
the power to issue revenue bonds without voter approval and without voter
confirmation of the district.

Special law districts encompassing an entire county are exempt from TWC
approval of bonds under Chapter 50, Water Code; however, Chapter 52
requires TWC approval regardless of size. Therefore, it should be made
clear as to which chapter applies in this case.
All of Kerr County lies within the Hill Country Critical Area designated and delineated by the Texas Water Commission on June 6, 1990. At that time the Commission concurred with the recommendation of its staff and the study area advisory committee that a district or districts should be created in the Critical Area; and that timely district creation via the Legislature would be the most appropriate action.

This bill appears to be a companion bill to Senate Bill 108 introduced by Sims.
By Hilderbran

Substitute the following for H.B. No. 1463:

By

C.S.H.B. No. 1463

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AN ACT

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

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

SECTION 2. DEFINITIONS. In this Act, "district" means the Headwaters Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Kerr County.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.
SECTION 5. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

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

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(b) Temporary directors serve until initial directors are elected under Section 8.

(c) Initial directors serve until permanent directors are elected under Section 9.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Sections 51.078 and 51.079, Water Code.

(f) A director serves until the director's successor has qualified.

SECTION 7. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

(1) George Holekamp

(2) Madge Parmley Reid

(3) Thomas Syfan
C.S.H.B. No. 1463

(4) William Cowden
(5) Tobin Parker

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 8. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors.

(b) A person who desires to be a candidate for the office of initial director may file an application with the temporary board to have the candidate's name printed on the ballot as provided by Section 51.075, Water Code.

(c) At the confirmation and initial directors' election, the temporary board of directors shall have the names of the five persons serving as temporary directors placed on the ballot together with the name of any candidate filing for the office of director as provided by Subsection (b) of this section and blank spaces to write in the names of other persons. If the district is created at the election, the temporary directors, at the time the vote is canvassed, shall declare the five persons who receive the most votes to be elected as the initial directors and shall include the results of the directors' election in its election report to the Texas Water Commission.
(d) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(e) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 52.059(b)-(g), Water Code, and the Election Code.

SECTION 9. ELECTION OF DIRECTORS. On the first Saturday in May of the second year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors who shall each serve two-year terms and three directors who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board.

SECTION 10. ADDITIONAL AUTHORITY. (a) The district shall contract with Kerr County or a river authority whose boundaries are coextensive with the district's boundaries for services available from the county or river authority that directly relate to the district's activities. Any party to a contract required by this subsection may petition the commission to resolve any dispute arising out of the contract.

(b) The district may contract with a state agency or another governmental body to carry out any function of the district.

SECTION 11. PROHIBITED ACTS. The district may not sell, donate, lease, or otherwise grant rights in or to underground water located in the district.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.
C.S.H.B. No. 1463

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

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

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

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

H.B. No. 1463

A BILL TO BE ENTITLED
AN ACT
relating to the creation, administration, powers, duties, operation, and financing of the Headwaters Underground Water Conservation District.

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

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

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

SECTION 2. DEFINITIONS. In this Act, "district" means the Headwaters Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Kerr County.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.
SECTION 5. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

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

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 8.

(c) Initial directors serve until permanent directors are elected under Section 9.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Sections 51.078 and 51.079, Water Code.

(f) A director serves until the director's successor has qualified.

SECTION 7. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

(1) George Holekamp
(2) Madge Parmley Reid
(3) Thomas Syfan
H.B. No. 1463

(4) William Cowden
(5) Tobin Parker

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 8. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors.

(b) A person who desires to be a candidate for the office of initial director may file an application with the temporary board to have the candidate's name printed on the ballot as provided by Section 51.075, Water Code.

(c) At the confirmation and initial directors' election, the temporary board of directors shall have the names of the five persons serving as temporary directors placed on the ballot together with the name of any candidate filing for the office of director as provided by Subsection (b) of this section and blank spaces to write in the names of other persons. If the district is created at the election, the temporary directors, at the time the vote is canvassed, shall declare the five persons who receive the most votes to be elected as the initial directors and shall include the results of the directors' election in its election report to the Texas Water Commission.
(d) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(e) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 52.059(b)-(g), Water Code, and the Election Code.

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SECTION 10. ADDITIONAL AUTHORITY. (a) The district shall contract with Kerr County or a river authority whose boundaries are coextensive with the district's boundaries for services available from the county or river authority that directly relate to the district's activities. Any party to a contract required by this subsection may petition the commission to resolve any dispute arising out of the contract.

(b) The district may contract with a state agency or another governmental body to carry out any function of the district.

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SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.
(a) The proper and legal notice of the intention to introduce this
Act, setting forth the general substance of this Act, has been
published as provided by law, and the notice and a copy of this Act
have been furnished to all persons, agencies, officials, or
entities to which they are required to be furnished by the
constitution and other laws of this state, including the governor,
who has submitted the notice and Act to the Texas Water Commission.

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

(c) All requirements of the constitution and laws of this
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days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.
The Honorable Ron Lewis
Chairman, Natural Resources Committee
Reagan 214

Re: Author’s Fiscal Statement. HB1463 (relating to the creation, administration, powers, duties, and funding of the Headwaters Underground Water Conservation District).

Sir:

In response to your request for an Author’s Fiscal Statement on HB1463, I have determined the following:

1. COST TO STATE GOVERNMENT: absolutely no fiscal implication is anticipated.
   A. The county judge and county commissioners of Kerr County serve ex officio as directors.

2. COST OF KERR COUNTY GOVERNMENT: funded through fees collected by the district and the general revenues of Kerr County:
   A. Actual expenses incurred in the performance of activities relate to district business, including education, travel and seminars.
   B. Maintenance and operating expenses of the district.
   C. The district may not levy any tax without the approval of the qualified voters of the district.

3. FISCAL YEAR PROJECTIONS:
   1991......no cost is anticipated
   1992......no cost is anticipated
   1993......no cost is anticipated
   1994......no cost is anticipated
   1995......no cost is anticipated

Please let me know if I can be of any further assistance to you.

Sincerely,

Harvey Hilderbran

Concho, Crockett, Edwards, Gillespie, Irion, Kerr, Kimble, Mason, Menard, Real, Schleicher, Sutton and Uvalde Counties
The Honorable Ann Richards  
Governor of Texas  
State Capitol Building, Room 200  
Austin, Texas  78701  

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59 (d), Texas Constitution.  

H.B. 1463 by Hilderbran  
Relating to the creation of the Headwaters Underground Water Conservation District

Dear Governor Richards:

The following attachment is submitted in response to the above-referenced constitutional requirements. 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.

Respectfully yours,

Allen Beinke  
Executive Director

Enclosures
Water Development Policy Impact Statement for House Bill 1463 (H.B. 1463) Regular Session, 72nd Legislature, relating to the creation, administration, powers, duties, operation, and financing of the Headwaters Underground Water Conservation District follow.

Wells located within the confines of this proposed district, which encompasses all of Kerr County, obtain their water principally from the Trinity Group aquifer which underlies the entire county. There appears to be no hydrogeologic justification for the determination of district boundaries. Kerr County lies entirely within a Water Commission designated Critical Area.

H.B. 1463 provides that the proposed district would have all of 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. Specific impact statements related to required headings follow.

1) Population projections - The boundaries of the proposed District are coterminal with the boundaries of Kerr County. In 1980, the population of Kerr County was 28,780 residents. The County's population growth pattern over the last ten years reflects a continuing increase in population with a 1990 population of 36,304 residents. The Board's current population projections for the County indicate that this trend will continue over the next 20 years with a population ranging from 50,675 to 54,467 by the year 2010.

2) District finances - H.B. 1463 authorizes the maintenance and operating expenses of the district to be paid from fees collected by the district and from the general revenues of Kerr County. The district is not authorized to levy any taxes without voter approval. The bill expressly does not limit the ability of the Commissioners
Court of Kerr County to raise general revenue taxes in support of the county's general revenue fund or in support of the district.

3) Board of directors & powers - The proposed district is to be governed by a board of directors composed of the county judge and county commissioners of Kerr County. The county judge will serve as the chairman of the board of directors. The county judge and the county commissioners serve ex officio as directors.

H.B. 1463 does not require that an election be held to confirm the district.

The district 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 underground water conservation 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. The district would also have the authority to regulate spacing and production of water wells. This act prevails over any provision of general law that is in conflict or inconsistent with it.

4) Effect on Texas Water Development Board's water plan - Approximately 43 percent of the County's current water needs for the population, industries, and agriculture are met from local ground-water resources. The Board finds that creation of the proposed District agrees with the Board's State Water Plan objective of promoting efficient use of ground-water resources and development and implementation of management programs for addressing local ground-water problems so as to enhance the availability of local ground-water supplies.

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 Sections 50.101 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).

There is a potential conflict in the bill's general references to both Chapters 50 and 52 of the Water Code, with regard to issuance of bonds. Commission approval authority over the district's bonds is questionable and should be clarified in the language of the bill. Chapter 52, Subchapter G, Texas Water Code would require Commission approval of bonds, but Chapter 50 exempts districts whose boundaries cover an entire county. These include bonds 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 - The power of eminent domain is authorized for this district as provided under general law for underground water conservation districts. The district's use of this power is restricted to property within its boundaries.

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 bill provides that the district include all the area of Kerr County, therefore, the boundary description is adequate in terms of closure. All of Kerr County lies within the Hill Country Critical Area designated and delineated by the Texas Water Commission on June 6, 1990. There are two existing districts within Kerr County, the Kerr County (Center Point) Water Control and Improvement District and the Southeast Thompson Municipal Utility District. Both of these districts are financially dormant. Part of the county is within the Upper Guadalupe River Authority. There are no apparent conflicts between the boundaries of this district and other existing entities.
9) Comment on powers and duties different from similar types of districts -
This bill proposes the creation of an underground water conservation
district, with the powers that are given in 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 Kerr County may create a conflict with the
constitutional prohibition against dual office holding and the common law
document of incompatibility. The constitutional prohibition is not
violated as long as the directors do not receive compensation from both
offices: other conflicts may occur, however, that would make the two
offices incompatible.

Two other non-standard provisions are included in H.B. 1463. Section 9
of the bill provides that the Texas Water Commission may by order
designate the district as the local enforcement agent for the commission
within the geographic boundaries of the district, delegating those powers
regarding underground waters located in the district that the commission
deems proper; and Section 10 prohibits the district from selling,
donating, leasing, or otherwise granting rights in or to the underground
waters located in the district.

The Commission offers the following comments related to this bill.

H.B. 1463 does not require voter confirmation of the creation of the
proposed district. The Commission notes that while the proposed district
is not provided with the authority to levy taxes, the district does have
the power to issue revenue bonds without voter approval and without voter
confirmation of the district.

Special law districts encompassing an entire county are exempt from TWC
approval of bonds under Chapter 50, Water Code; however, Chapter 52
requires TWC approval regardless of size. Therefore, it should be made
clear as to which chapter applies in this case.
All of Kerr County lies within the Hill Country Critical Area designated and delineated by the Texas Water Commission on June 6, 1990. At that time the Commission concurred with the recommendation of its staff and the study area advisory committee that a district or districts should be created in the Critical Area; and that timely district creation via the Legislature would be the most appropriate action.

This bill appears to be a companion bill to Senate Bill 108 introduced by Sims.
6. What overall impact does this bill have on TWC: (Major impact, some impact, minor impact, no impact?)

No impact.

7. How will interest groups or other governmental entities be affected? Who are they and what are their likely responses?

Owners of high capacity water wells, i.e. most municipalities, may be affected by district actions. Support for the bill would be expected.

8. Does your division support this bill as written?

No.

9. What changes are recommended to the text of the bill?

Bill names county judge and county commissioners as district board. This creates a legal defect. It probably constitutes a violation of state constitutional provisions relating to dual officeholding as well as the common law doctrine of incompatibility.

10. Additional comments:

Kerr County is part of the Commission designated Hill Country Critical Area.

District would need a better funding source to function well.
By: Hilderbrand (Senate Sponsor - Sims)  
H.B. No. 1463  
(In the Senate - Received from the House May 6, 1991;  
May 7, 1991, read first time and referred to Committee on Natural  
Resources; May 17, 1991, reported adversely, with favorable  
Committee Substitute by the following vote: Yeas 9, Nays 0;  
May 17, 1991, sent to printer.)

COMMITTEE VOTE

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COMMITTEE SUBSTITUTE FOR H.B. No. 1463  
By: Sims

A BILL TO BE ENTITLED  
AN ACT

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

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

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

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

SECTION 2. DEFINITIONS. In this Act, "district" means the  
Headwaters Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are  
coextensive with the boundaries of Kerr County.

SECTION 4. FINDING OF BENEFIT. All of the land and other  
property included within the boundaries of the district will be  
benefited by the works and projects that are to be accomplished by  
the district under powers conferred by Article XVI, Section 59, of  
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use and benefit.

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

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and duties of the district are subject to the continuing right of  
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(b) Temporary directors serve until initial directors are  
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manner provided by Sections 51.078 and 51.079, Water Code.
C.S.H.B. No. 1463

(f) A director serves until the director's successor has qualified.

(g) The directors serve without compensation; but are entitled to reimbursement for actual expenses incurred in the performance of activities related to district business including education, travel and seminars.

SECTION 7. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

(1) George Holekamp
(2) Madge Parmley Reid
(3) Thomas Syfan
(4) Eddie Taylor
(5) Tobin Parker

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 8. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors.

(b) A person who desires to be a candidate for the office of initial director may file an application with the temporary board to have the candidate's name printed on the ballot as provided by Section 51.075, Water Code.

(c) At the confirmation and initial directors' election, the temporary board of directors shall have the names of the five persons serving as temporary directors placed on the ballot together with the name of any candidate filing for the office of director as provided by Subsection (b) of this section and blank spaces to write in the names of other persons. If the district is created at the election, the temporary directors, at the time the vote is canvassed, shall declare the five persons who receive the most votes to be elected as the initial directors and shall include the results of the directors' election in its election report to the Texas Water Commission.

(d) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

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C.S.H.B. No. 1463

1 constitution and other laws of this state, including the governor,
2 who has submitted the notice and Act to the Texas Water Commission.
3 (b) The Texas Water Commission has filed its recommendations
4 relating to this Act with the governor, lieutenant governor, and
5 speaker of the house of representatives within the required time.
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8 to the notice, introduction, and passage of this Act are fulfilled
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10 SECTION 13. 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.

* * * * *

Austin, Texas
May 17, 1991

Hon. Bob Bullock
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred H.B.
No. 1463, have had the same under consideration, and I am
instructed to report it back to the Senate with the recommendation
that it do not pass, but that the Committee Substitute adopted in
lieu thereof do pass and be printed.

Sims, Chairman
March 12, 1991

The Honorable Ron Lewis
Chairman, Natural Resources Committee
Reagan 214

Re: Author's Fiscal Statement. HB1463 (relating to the creation, administration, powers, duties, and funding of the Headwaters Underground Water Conservation District).

Sir:

In response to your request for an Author's Fiscal Statement on HB1463, I have determined the following:

1. COST TO STATE GOVERNMENT: absolutely no fiscal implication is anticipated.

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Please let me know if I can be of any further assistance to you.

Sincerely,

Harvey Hilderbrand

Concho, Crockett, Edwards, Gillespie, Irion, Kerr, Kimble, Mason, Menard, Real, Schleicher, Sutton and Uvalde Counties
March 11, 1991

The Honorable Ann Richards
Governor of Texas
State Capitol Building, Room 200
Austin, Texas    78701

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59 (d), Texas Constitution.

H.B. 1463 by Hilderbran

Relating to the creation of the Headwaters Underground Water Conservation District

Dear Governor Richards:

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Respectfully yours,

Allen Beinke
Executive Director

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H.B. 1463 provides that the proposed district would have all of 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. Specific impact statements related to required headings follow.

1) **Population projections** - The boundaries of the proposed District are coterminous with the boundaries of Kerr County. In 1980, the population of Kerr County was 28,780 residents. The County’s population growth pattern over the last ten years reflects a continuing increase in population with a 1990 population of 36,304 residents. The Board’s current population projections for the County indicate that this trend will continue over the next 20 years with a population ranging from 50,675 to 54,467 by the year 2010.

2) **District finances** - H.B. 1463 authorizes the maintenance and operating expenses of the district to be paid from fees collected by the district and from the general revenues of Kerr County. The district is not authorized to levy any taxes without voter approval. The bill expressly does not limit the ability of the Commissioners
Court of Kerr County to raise general revenue taxes in support of the county's general revenue fund or in support of the district.

3) Board of directors & powers - The proposed district is to be governed by a board of directors composed of the county judge and county commissioners of Kerr County. The county judge will serve as the chairman of the board of directors. The county judge and the county commissioners serve ex officio as directors.

H.B. 1463 does not require that an election be held to confirm the district.

The district 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 underground water conservation 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. The district would also have the authority to regulate spacing and production of water wells. This act prevails over any provision of general law that is in conflict or inconsistent with it.

4) Effect on Texas Water Development Board's water plan - Approximately 43 percent of the County's current water needs for the population, industries, and agriculture are met from local ground-water resources. The Board finds that creation of the proposed District agrees with the Board's State Water Plan objective of promoting efficient use of ground-water resources and development and implementation of management programs for addressing local ground-water problems so as to enhance the availability of local ground-water supplies.

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 Sections 50.101 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).

There is a potential conflict in the bill’s general references to both Chapters 50 and 52 of the Water Code, with regard to issuance of bonds. Commission approval authority over the district’s bonds is questionable and should be clarified in the language of the bill. Chapter 52, Subchapter G, Texas Water Code would require Commission approval of bonds, but Chapter 50 exempts districts whose boundaries cover an entire county. These include bonds 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** - The power of eminent domain is authorized for this district as provided under general law for underground water conservation districts. The district’s use of this power is restricted to property within its boundaries.

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 bill provides that the district include all the area of Kerr County, therefore, the boundary description is adequate in terms of closure. All of Kerr County lies within the Hill Country Critical Area designated and delineated by the Texas Water Commission on June 6, 1990. There are two existing districts within Kerr County, the Kerr County (Center Point) Water Control and Improvement District and the Southeast Thompson Municipal Utility District. Both of these districts are financially dormant. Part of the county is within the Upper Guadalupe River Authority. There are no apparent conflicts between the boundaries of this district and other existing entities.
9) Comment on powers and duties different from similar types of districts -
This bill proposes the creation of an underground water conservation district, with the powers that are given in 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 Kerr County may create a conflict with the constitutional prohibition against dual office holding and the common law doctrine of incompatibility. The constitutional prohibition is not violated as long as the directors do not receive compensation from both offices; other conflicts may occur, however, that would make the two offices incompatible.

Two other non-standard provisions are included in H.B. 1463. Section 9 of the bill provides that the Texas Water Commission may by order designate the district as the local enforcement agent for the commission within the geographic boundaries of the district, delegating those powers regarding underground waters located in the district that the commission deems proper; and Section 10 prohibits the district from selling, donating, leasing, or otherwise granting rights in or to the underground waters located in the district.

The Commission offers the following comments related to this bill.

H.B. 1463 does not require voter confirmation of the creation of the proposed district. The Commission notes that while the proposed district is not provided with the authority to levy taxes, the district does have the power to issue revenue bonds without voter approval and without voter confirmation of the district.

Special law districts encompassing an entire county are exempt from TWC approval of bonds under Chapter 50, Water Code; however, Chapter 52 requires TWC approval regardless of size. Therefore, it should be made clear as to which chapter applies in this case.
All of Kerr County lies within the Hill Country Critical Area designated and delineated by the Texas Water Commission on June 6, 1990. At that time the Commission concurred with the recommendation of its staff and the study area advisory committee that a district or districts should be created in the Critical Area; and that timely district creation via the Legislature would be the most appropriate action.

This bill appears to be a companion bill to Senate Bill 108 introduced by Sims.
6. What overall impact does this bill have on TWC: (Major impact, some impact, minor impact, no impact?)
No impact.

7. How will interest groups or other governmental entities be affected? Who are they and what are their likely responses?
Owners of high capacity water wells, i.e. most municipalities, may be affected by district actions. Support for the bill would be expected.

8. Does your division support this bill as written?
No.

9. What changes are recommended to the text of the bill?
Bill names county judge and county commissioners as district board. This creates a legal defect. It probably constitutes a violation of state constitutional provisions relating to dual officeholding as well as the common law doctrine of incompatibility.

10. Additional comments:
Kerr County is part of the Commission designated Hill Country Critical Area.
District would need a better funding source to function well.
LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES
STATE OF TEXAS

TO: The Honorable Ann W. Richards
Governer 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. 4483, 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.

FEB 28 1991
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._______, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

Ann W. Richards
Governor

Date transmitted to
Texas Water Commission

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

The Honorable Bob Bullock
President of the Senate

The Honorable Ann W. Richards
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
THE STATE OF TEXAS:
THE COUNTY OF KERR:

I, James R. Gray, publisher of THE KERRVILLE TIMES, a newspaper published in the County of Kerr, State of Texas, do swear that the foregoing and attached citation was published in Kerrville, Kerr County, Texas, a newspaper of general circulation published regularly in said Kerr County, Texas for more than one year next before this date on the following dates to wit:

Jan 25, 1921
Jan 26, 1921
Jan 27, 1921

A printed copy of said writ as it was published is attached

James R. Gray
Publisher of
THE KERRVILLE TIMES, KERR CO. KERRVILLE

Sworn to and subscribed before me by the said James R. Gray, Publisher, of THE KERRVILLE TIMES, on this the 29th day of January, A. D. 1921, to certify which witness my hand and seal of office.

Natalie L. Joy
Notary Public, Kerr County, Texas

PRINTER'S FEE
FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 1463

By Hilderbrand/Sims

Author/Senate Sponsor

5-17-91

(date of submission to Senate)

Lt. Governor Bob Bullock
President of the Senate

Sir:

We, your Committee on Natural Resources, to which was referred the attached measure, have on 5-16-91, had the same under consideration and I am instructed to report it back with the recommendation(s) that it:

☑ do pass as substituted, and be printed
☒ the caption remained the same as original measure
( ) the caption changed with adoption of the substitute

( ) do pass as substituted, 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

The measure was reported from Committee by the following vote:

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<td>Truan, Vice Chairman</td>
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TOTAL VOTES: 9

COMMITTEE ACTION

☐260 Considered in public hearing
☐279 Testimony taken

COMMITTEE CLERK

CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Deliver one copy of this form to the Calendar Clerk, Room 218 Capitol
Deliver one copy of this form to the Legislative Reference Library, Room 207B Capitol
Retain one copy of this form for Committee files
REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

Hon. Bill Haley, Chairman
Administration Committee

Sir:

Notice is hereby given that HB 1463, by: Sims,
(Bill No.)
was heard by the Committee on natural resources on 5-16 1991,
and reported out with the recommendation that it be placed on the Local Uncontested Bills Calendar.

Sue May
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 ROOM 419. DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS 5:00 P.M. FRIDAY.

Paper clip the original to the bill; retain one copy for reporting committee files; deliver one copy to the bill sponsor.
A BILL TO BE ENTITLED

AN ACT

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

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

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

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

SECTION 2. DEFINITIONS. In this Act, "district" means the Headwaters Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Kerr County.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.
SECTION 5. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

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

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 8.

(c) Initial directors serve until permanent directors are elected under Section 9.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Sections 51.078 and 51.079, Water Code.

(f) A director serves until the director's successor has qualified.

(g) The directors serve without compensation; but are entitled to reimbursement for actual expenses incurred in the performance of activities related to district business including education, travel and seminars.
SECTION 7. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

(1) George Holekamp
(2) Madge Parmley Reid
(3) Thomas Syfan
(4) Eddie Taylor
(5) Tobin Parker

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 8. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors.

(b) A person who desires to be a candidate for the office of initial director may file an application with the temporary board to have the candidate's name printed on the ballot as provided by Section 51.075, Water Code.

(c) At the confirmation and initial directors' election, the temporary board of directors shall have the names of the five persons serving as temporary directors placed on the ballot together with the name of any candidate filing for the office of director as provided by Subsection (b) of this section and blank spaces to write in the names of other persons. If the district is
created at the election, the temporary directors, at the time the vote is canvassed, shall declare the five persons who receive the most votes to be elected as the initial directors and shall include the results of the directors' election in its election report to the Texas Water Commission.

(d) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(e) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 52.059(b)-(g), Water Code, and the Election Code.

SECTION 9. ELECTION OF DIRECTORS. On the first Saturday in May of the second year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors who shall each serve two-year terms and three directors who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board.

SECTION 10. ADDITIONAL AUTHORITY. (a) The district shall contract with Kerr County or a river authority whose boundaries are coextensive with the district's boundaries for services available from the county or river authority that directly relate to the district's activities. Any party to a contract required by this subsection may petition the commission to resolve any dispute arising out of the contract.

(b) The district may contract with a state agency or another
C.S.H.B. No. 1463

governmental body to carry out any function of the district.

SECTION 11. PROHIBITED ACTS. The district may not sell,
donate, lease, or otherwise grant rights in or to underground water
located in the district.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

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

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

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

SECTION 13. EMERGENCY. The importance of this legislation
and the crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.
By Hilderbrand H.B. No. 1463

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 8.

(c) Initial directors serve until permanent directors are elected under Section 9.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Sections 51.078 and 51.079, Water Code.

(f) A director serves until the director's successor has qualified.

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(1) George Holekamp

(2) Madge Parnley Reid

(3) Thomas Syfan
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(5) Tobin Parker

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

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(a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors.

(b) A person who desires to be a candidate for the office of initial director may file an application with the temporary board to have the candidate's name printed on the ballot as provided by Section 51.075, Water Code.

(c) At the confirmation and initial directors' election, the temporary board of directors shall have the names of the five persons serving as temporary directors placed on the ballot together with the name of any candidate filing for the office of director as provided by Subsection (b) of this section and blank spaces to write in the names of other persons. If the district is created at the election, the temporary directors, at the time the vote is canvassed, shall declare the five persons who receive the most votes to be elected as the initial directors and shall include the results of the directors' election in its election report to the Texas Water Commission.
(d) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(e) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 52.059(b)-(g), Water Code, and the Election Code.

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(b) The district may contract with a state agency or another governmental body to carry out any function of the district.

SECTION 11. PROHIBITED ACTS. The district may not sell, donate, lease, or otherwise grant rights in or to underground water located in the district.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.
H.B. No. 1463

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

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

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

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

SENATE AMENDMENT NO. 1

By Sims

C.S.H.B. No. 1463

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AN ACT

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vote is canvassed, shall declare the five persons who receive the
most votes to be elected as the initial directors and shall include
the results of the directors' election in its election report to
the Texas Water Commission.

(d) Section 41.001(a), Election Code, does not apply to a
confirmation and initial directors' election held as provided by
this section.

(e) Except as provided by this section, a confirmation and
initial directors' election must be conducted as provided by
Sections 52.059(b)-(g), Water Code, and the Election Code.

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May of the second year after the year in which the district is
authorized to be created at a confirmation election, an election
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serve four-year terms. Thereafter, on the same date in each
subsequent second year, the appropriate number of directors shall
be elected to the board.

SECTION 10. ADDITIONAL AUTHORITY. (a) The district shall
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coeextensive with the district's boundaries for services available
from the county or river authority that directly relate to the
district's activities. Any party to a contract required by this
subsection may petition the commission to resolve any dispute
arising out of the contract.

(b) The district may contract with a state agency or another
governmental body to carry out any function of the district.
SECTION 11. PROHIBITED ACTS. The district may not sell, donate, lease, or otherwise grant rights in or to underground water located in the district.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.
(a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Water Commission.

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

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

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

FISCAL NOTE
May 19, 1991

TO:      Honorable Bill Sims, Chairman
         Committee on Natural Resources
         Senate Chamber
         Austin, Texas

IN RE:   Senate Committee Substitute for
         House Bill No. 1463

FROM:   Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Committee Substitute for House Bill No. 1463 (relating to the creation, administration, powers, duties, operation, and financing of the Headwaters 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: Comptroller of Public Accounts;
        LBB Staff: JO, JWH, DF, EC, CKM
The Texas House of Representatives

HARVEY HILDERBRAN
State Representative
District 67

Committees:
Public Health
Retirement & Aging

March 12, 1991

The Honorable Ron Lewis
Chairman, Natural Resources Committee
Reagan 214

Re: Author’s Fiscal Statement. HB1463 (relating to the creation, administration, powers, duties, and funding of the Headwaters Underground Water Conservation District).

Sir:

In response to your request for an Author’s Fiscal Statement on HB1463, I have determined the following:

1. COST TO STATE GOVERNMENT: absolutely no fiscal implication is anticipated.
   A. The county judge and county commissioners of Kerr County serve ex officio as directors.

2. COST OF KERR COUNTY GOVERNMENT: funded through fees collected by the district and the general revenues of Kerr County:
   A. Actual expenses incurred in the performance of activities relate to district business, including education, travel and seminars.
   B. Maintenance and operating expenses of the district.
   C. The district may not levy any tax without the approval of the qualified voters of the district.

3. FISCAL YEAR PROJECTIONS:
   1991.....no cost is anticipated
   1992.....no cost is anticipated
   1993.....no cost is anticipated
   1994.....no cost is anticipated
   1995.....no cost is anticipated

Please let me know if I can be of any further assistance to you.

Sincerely,

[Signature]

Concho, Crockett, Edwards, Gillespie, Irion, Kerr, Kimble, Mason, Menard, Real, Schleicher, Sutton and Uvalde Counties
AN ACT

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

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

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

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

SECTION 2. DEFINITIONS. In this Act, "district" means the Headwaters Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Kerr County.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.
SECTION 5. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52, Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

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

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 8.

(c) Initial directors serve until permanent directors are elected under Section 9.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Sections 51.078 and 51.079, Water Code.

(f) A director serves until the director's successor has qualified.

(g) The directors serve without compensation; but are entitled to reimbursement for actual expenses incurred in the performance of activities related to district business including education, travel and seminars.

SECTION 7. TEMPORARY DIRECTORS. (a) The temporary board of
directors is composed of:

(1) George Holekamp
(2) Madge Parmley Reid
(3) Thomas Syfan
(4) Eddie Taylor
(5) Tobin Parker

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 8. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors.

(b) A person who desires to be a candidate for the office of initial director may file an application with the temporary board to have the candidate's name printed on the ballot as provided by Section 51.075, Water Code.

(c) At the confirmation and initial directors' election, the temporary board of directors shall have the names of the five persons serving as temporary directors placed on the ballot together with the name of any candidate filing for the office of director as provided by Subsection (b) of this section and blank spaces to write in the names of other persons. If the district is created at the election, the temporary directors, at the time the
vote is canvassed, shall declare the five persons who receive the
most votes to be elected as the initial directors and shall include
the results of the directors' election in its election report to
the Texas Water Commission.

(d) Section 41.001(a), Election Code, does not apply to a
confirmation and initial directors' election held as provided by
this section.

(e) Except as provided by this section, a confirmation and
initial directors' election must be conducted as provided by
Sections 52.059(b)-(g), Water Code, and the Election Code.

SECTION 9. ELECTION OF DIRECTORS. On the first Saturday in
May of the second year after the year in which the district is
authorized to be created at a confirmation election, an election
shall be held in the district for the election of two directors who
shall each serve two-year terms and three directors who shall each
serve four-year terms. Thereafter, on the same date in each
subsequent second year, the appropriate number of directors shall
be elected to the board.

SECTION 10. ADDITIONAL AUTHORITY. (a) The district shall
contract with Kerr County or a river authority whose boundaries are
coextensive with the district's boundaries for services available
from the county or river authority that directly relate to the
district's activities. Any party to a contract required by this
subsection may petition the commission to resolve any dispute
arising out of the contract.

(b) The district may contract with a state agency or another
governmental body to carry out any function of the district.
SECTION 11. PROHIBITED ACTS. The district may not sell, donate, lease, or otherwise grant rights in or to underground water located in the district.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.
(a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Water Commission.
(b) The Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.
(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 13. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.
H.B. No. 1463

President of the Senate

I certify that H.B. No. 1463 was passed by the House on May 2, 1991, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1463 on May 23, 1991, by a non-record vote.

Speaker of the House

Chief Clerk of the House

I certify that H.B. No. 1463 was passed by the Senate, with amendments, on May 21, 1991, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: 

Date

Governor
President of the Senate

I certify that H.B. No. 1463 was passed by the House on May 2, 1991, by the following vote:

Yea 144, Nays 0, 1 present, not voting;

and that the House concurred in Senate amendments to H.B. No. 1463 on May 23, 1991, by a non-record vote.

Chief Clerk of the House

**** Preparation: CT62;

I certify that H.B. No. 1463 was passed by the Senate, with amendments, on May 21, 1991, by the following vote: Yeas 31, Nays 0;

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: CT14;
H. B. No. 1463

A BILL TO BE ENTITLED
AN ACT

relating to the creation, administration, powers, duties, and funding of the Headwaters Underground Water Conservation District.

**MAY 2, 1991**

1. Read third time (amended); finally passed (passed) by a Non-Record Vote (Record Vote of 144 yeas, 0 nays, 1 present, not voting).

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

3. 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 2, 1991**

4. Ordered Engrossed at 5:08 p.m.

**MAY 3, 1991**

5. Engrossed.

**MAY 3, 1991**

6. Returned to Chief Clerk at 11:07 a.m.

**MAY 6, 1991**

7. Sent to Senate.

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.

9. Read second time (amended); passed to third reading (failed) by a (Non-Record Vote) (Record Vote of years, nays, and present, not voting).

10. Received from the House

11. Read, referred to Committee on Natural Resources

12. Reported favorably

13. Report adversely, with favorable Committee Substitute; Committee Substitute read first time.


15. Regular order of business suspended by (a viva voce vote.) (years, nays.)
22. To permit consideration, reading and passage, Senate and Constitutional Rules
suspended by vote of ________ yeas, ________ nays.

23. Read second time passed to third reading by:

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

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

26. Read third time and passed by

OTHER ACTION:

Secretary of the Senate

27. Returned to the House.

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

29. House (Concurred) (Referred to Concur) in Senate (amendments) by (Non-Record
Vote) Record Vote of ________ yeas, ________ nays, ________ present.

30. Conference Committee Ordered.

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

32. Ordered Enrolled at _______