A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado 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 Llano Estacado Underground Water Conservation District, is created in Gaines 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. DEFINITION. In this Act, "district" means the Llano Estacado Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Gaines County, Texas.

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 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 seven 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) Phil Wallace

(2) Dayton Elam

(3) Wayne Mixon
(4) Doyle Darby
(5) A. U. Webb
(6) Roy Wicker
(7) Horace Hancock

(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 seven 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 52.107, Water Code.
(c) At the confirmation and initial directors' election, the temporary board of directors shall have the names of the seven 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 board of directors, at the time the vote is canvassed, shall declare the seven 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 three directors
who shall each serve two-year terms and four 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. 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 11. 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 TO PRINTED COPY OF PUBLICATION

Before me, the undersigned authority, on this day personally appeared M. Gene Dow, who on his oath stated: I am the Publisher of the SEMINOLE SENTINEL, a newspaper published in GAINES COUNTY, TEXAS, and know the facts stated in this affidavit. The above printed matter is a true and correct copy of the publication of the citation of which it purports to be a copy, as the same appeared in such newspaper in the respective issues of the ________, ___________.

__________, ____________, ____________, and December 90, and ____________ days of ____________ 19_; the charge of the proprietor of such newspaper for such publication being $11.40 dollars.

Subscribed and sworn to before me, this ______ day of December 19 90, to certify which, witness my hand and seal of office.

Paula Kubicek
Notary Public, Gaines County, Texas
NOTICE OF INTENT

This is to give notice of the intent to introduce a bill in the 72nd Legislature -- to be entitled an act relating to the creation of the Llano Estacado Underground Water Conservation District, the boundaries of which would be identical to the County of Gaines boundaries.

Published in The Seminole Sentinel on December 23rd, 1990.
By Rudd

H.B. No. 530

Substitute the following for H.B. No. 530:

C.S.H.B. No. 530

By Yost

A BILL TO BE ENTITLED

AN ACT

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

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

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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.

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SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Gaines County, Texas.

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 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. ELECTION OF DIRECTORS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this Act.

(b) One director shall be elected by the electors of the entire district and one director shall be elected from each county commissioners precinct by the electors of that precinct.

(c) A person shall indicate on the application for a place on the ballot the precinct that the person seeks to represent or that the person seeks to represent the district at large.

(d) At the first election after the county commissioners precincts are redrawn under Article V, Section 18, of the Texas Constitution, four new directors shall be elected to represent the precincts. The directors elected shall draw lots to determine their terms.

SECTION 7. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.
C.S.H.B. No. 530

(b) A vacancy in the office of director shall be filled by appointment of the board until the next election for directors. If the position is not scheduled to be filled at the election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

(c) To be eligible to serve as director, a person must be a registered voter in the precinct from which the person is elected or appointed if representing a precinct or in the district if representing the district at large.

SECTION 8. SERVICE OF DIRECTORS. (a) Temporary directors serve until initial directors are elected under Section 10.

(b) Initial directors serve until permanent directors are elected under Section 11.

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

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

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

SECTION 9. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

1. Phil Wallace - at large
2. Roy Wicker - Precinct No. 1
3. Horace Hancock - Precinct No. 2
4. Doyle Darby - Precinct No. 3
5. Earl Houston - Precinct No. 4

(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 10. 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, including a temporary director, 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 52.107, Water Code.

(c) At the confirmation and initial directors' election, the
temporary board of directors shall have the name of any candidate
filing for the office of director as provided by Subsection (b) of
this section placed on the ballot and blank spaces to write in the
names of other persons. If the district is created at the
election, the temporary board of directors, at the time the vote is
canvassed, shall declare the person who receives the most votes in
each precinct to be elected as director for that precinct and the
person who receives the most votes in the district to be elected as
director for the district at large. The district 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 11. 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 the directors for Precinct Nos. 1 and 3, who shall each serve two-year terms, and the directors for Precinct Nos. 2 and 4 and for the district at large, 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 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

March 4, 1991

Sir:

We, your COMMITTEE ON NATURAL RESOURCES, to whom was referred HB 530, 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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<th>AYE</th>
<th>NAY</th>
<th>PNV</th>
<th>ABSENT</th>
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<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

8 aye
0 nay
0 present, not voting
1 absent

CHAIRMAN
COMMITTEE COORDINATOR
BILL ANALYSIS

BACKGROUND

It is believed that the creation of the Llano Estacado Underground Water Conservation District would be of benefit to the residents in the area.

PURPOSE OF THE BILL

This bill creates the Llano Estacado Underground Water Conservation District.

SECTION BY SECTION ANALYSIS

Section 1. Creates the district and finds the district essential to accomplish the purposes of Article XVI, Section 59, Texas Constitution.

Section 2. Defines "district."

Section 3. Sets the district's boundaries coextensive with the boundaries of Gaines County.

Section 4. Legislative finding of public use and benefit.

Section 5. Provides for the district's powers, including Chapters 50 and 52, Water Code, and Article XVI, Section 59, Texas Constitution. Provides for the continuing supervision by the Texas Water Commission.

Section 6. Provides for a board to be elected according to the commissioner's precinct method in this Act.

Section 7. Provides for a board of five directors, the filling of vacancies, and eligibility requirements.

Section 8. Provides for temporary directors, initial directors, and staggered four-year terms and qualifications for permanent directors, to follow Sections 51.078 and 51.079, Water Code.


Section 10. Provides for a confirmation and initial director's election as governed by Sections 52.059(b)-(g), Water Code, and Election Code.

Section 11. Provides for the election of the directors on the first Saturday in May after the district confirmation election. Directors shall serve two (precincts 1 and 3) and four (precincts 2 and 4 and at large) year terms.

Section 12. Legislative finding that procedural requirements have been met.


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

CSHB 530 provides for the permanent directors' election according to the commissioner's precinct method, their filling of vacancies, and their eligibility requirements. It also decreases the number of directors from seven to five.

SUMMARY OF COMMITTEE ACTION

HB 530 was referred directly to the Subcommittee on Water Districts on February 7, 1991. Notice was posted in accordance with House Rules and HB 530 was heard in a public hearing of the Subcommittee on February 26, 1991. Phil Wallace, a farmer representing citizens for the creation of the district testified in favor of the bill. Doyle Darby and Horace Hancock, also farmers representing citizens for the creation of the district, did not testify, but recorded support for the bill. The motion to report the bill back to the full committee with substitute carried by a vote of 2 ayes, 0 nays, 0 PNV, and 1 absent. The Subcommittee Report on HB 530 was taken up at a Full Committee hearing on March 4, 1991. No witnesses were present on the bill. The motion to report HB 530 with substitute favorably back to the full House and be placed on the Local and Consent Calendar carried by a vote of 8 ayes, 0 nays, 0 PNV, and 1 absent. carried by a motion
February 15, 1991

The Honorable Ron Lewis, Chair
Committee on Natural Resources
Reagan Building, Room 214

Dear Chairman Lewis:

Below are the fiscal projections for my bill, HB 530, relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado Underground Water Conservation District.

1992 - $100,000
1993 - 75,000
1994 - 75,000
1995 - 75,000
1996 - 75,000

Please feel free to contact me if I can be of further service.

Sincerely,

Jim D. Rudd

/jfe
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. 530 by Rudd  
Relating to the creation of the Llano Estacado 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,

Allen Beinke  
Executive Director

Enclosures  
cc: Representative Lewis, Chairman  
House Natural Resources Committee  
Representative Rudd
Water Development Policy Impact Statement for House Bill 530 (H.B. 530) Regular Session, 72nd Legislature, relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado Underground Water Conservation District follows.

Wells located within the confines of this proposed district, which encompasses all of Gaines County, obtain their water principally from the Ogallala (High Plains) aquifer which underlies the entire county. Additionally, Cretaceous rocks which are in hydrologic continuity with the Ogallala are considered to be part of the High Plains aquifer, can also yield water to wells. There appears to be no hydrogeologic justification for the determination of district boundaries. Gaines County has been included as part of a Water Commission/Water Development Board Critical Area study currently underway.

H.B. 530 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 proposed District is coterminous with the boundaries of Gaines County. In 1980, the population of Gaines County was 13,150 residents. The County’s population growth pattern over the last ten years reflects a
continuing increase in the number of residents with a 1990 population of 14,123. The Board's projected population for Gaines County indicates a continuation of this trend over the next twenty years with a population ranging from 15,129 to 15,523 residents.

2) District finances - The financing of the district is authorized by reference to Chapter 52, Water Code. The district may issue and sell bonds, and levy ad valorem taxes to pay for all or part of the bonds and for the district's maintenance. The tax rate is unlimited for the payment of bonds issued by the district. The tax rate shall not exceed 50 cents on each $100 of assessed valuation for maintenance taxes. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.

3) Board of directors & powers - This proposed district is to be governed by a board of seven directors. The bill provides for and describes three sets of boards of directors. These are a temporary board, an initial permanent board, and the permanent board. The temporary directors are listed in the act. If a temporary director fails to qualify for office, the qualified temporary directors shall appoint a person to fill the vacancy. In the event there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill the vacancies. Temporary directors serve until initial permanent directors are elected and the initial permanent directors serve until the permanent directors are elected. Other than initial permanent directors, permanent directors
serve staggered four-year terms. Each director serves until his successor has qualified. Each director must qualify in the manner provided by Sections 51.078 and 51.079, Texas Water Code.

The temporary board shall call and hold a confirmation election including the election of seven initial permanent directors. A person who desires to be a candidate for the office of initial permanent director may file an application with the temporary board to have their name printed on the ballot as provided by Section 52.107, Texas Water Code. At the election, the names of the seven persons serving as temporary directors, together with any candidate filing for the office of director, shall be placed on the ballot. The ballot shall also provide blank spaces to write in the names of other persons. If the district is created at this election, the temporary directors at the time the vote is canvassed, shall declare the persons who receive the most votes to be elected as the initial permanent directors. The district shall include the results of the election in its election report to the Texas Water Commission. Section 41.001(a), Election Code, does not apply to the confirmation election; however, it must be conducted as provided by Sections 52.059(b) - (g), Texas Water Code, and the Election Code.

On the first Saturday of May of the second year after the year in which the district is authorized to be created, an election shall be held for the election of three permanent directors who shall serve two-year terms and four permanent 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. Thus, the permanent directors
serve staggered four-year terms.

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** - Current and future water needs of the population, agriculture, and industries of Gaines County will continue to be supplied from ground water resources of the area. The Board finds that creation of the proposed District agrees with the Board’s State Water Plan objectives of promoting the efficient use of ground-water resources and ground-water management programs for addressing local ground-water problems in order to enhance the availability and use 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).

Issuance of bonds and notes authorized for certain items must be approved by the Commission in the manner provided for in Chapter 52, Subchapter G, Texas Water Code. These include those authorized to: 1) erect or construct dams or to drain lakes, draws, depressions, and creeks; 2) install pumps and other equipment; and, 3) provide necessary facilities for the purchase, sale, transportation, and distribution of water.

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

7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.

8) **Adequacy of the boundary description** - The bill provides that the district include all the area of Gaines County, therefore, the boundary description is adequate in terms of closure. Portions of this county lie within Subdivision No. 4 of the Underground Water Reservoir in the Ogallala Formation, South of the Canadian River, which was delineated in 1956. This area was also part of
The South Plains Underground Water Conservation District No. 4, which was created in 1966 and ruled invalid by the Texas Supreme Court. Another attempt was made to form a district, but it was not confirmed by the voters. There are no apparent conflicts between the boundaries of this district and other existing entities. However, with the introduction of H.B. 456 which would create the Gaines County Solid Waste Disposal District encompassing the whole county, future coordination between the districts may be required.

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. There are no unusual or special powers or duties which have been granted to this district.

It is noted that Chapter 52 was amended in 1989 to remove references to Chapter 51. A new section was added to Chapter 52 providing for the oath of office taken by directors. This provision, Section 52.108, conflicts with Section 51.078 referenced specifically in H.B. 530. However, the bill does contain the standard language providing that the act shall prevail in cases of conflict with general laws.
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. 530, 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.

JAN 23 1991
Date transmitted to
Texas Water Commission

Chief Clerk
House of Representatives

TO: The Honorable Members of the
Texas House of Representatives

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

Attached is the Water Development Policy Impact Statement prepared by the Texas Water Commission and the Texas Water Development Board for the above mentioned bill, in compliance with House Rule 4, Section 36.

Allan Buike
Executive Director
Texas Water Commission

FOR CHIEF CLERK USE

IMPACT STATEMENT RECEIVED FROM TEXAS WATER COMMISSION ON FEB 12 1991

IMPACT STATEMENT DELIVERED TO COMMITTEE ON Natural Resources
ON FEB 19 1991
ADOPTED

MAR 27 1991

By Rudd

Substitute the following for H.B. No. 530:

By

C.S.H.B. No. 530

H.B. No. 530

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado 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.

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SECTION 5. POWERS. (a) The district has all 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. ELECTION OF DIRECTORS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this Act.

(b) One director shall be elected by the electors of the entire district and one director shall be elected from each county commissioners precinct by the electors of that precinct.

(c) A person shall indicate on the application for a place on the ballot the precinct that the person seeks to represent or that the person seeks to represent the district at large.

(d) At the first election after the county commissioners precincts are redrawn under Article V, Section 18, of the Texas Constitution, four new directors shall be elected to represent the precincts. The directors elected shall draw lots to determine their terms.

SECTION 7. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.
(b) A vacancy in the office of director shall be filled by appointment of the board until the next election for directors. If the position is not scheduled to be filled at the election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

(c) To be eligible to serve as director, a person must be a registered voter in the precinct from which the person is elected or appointed if representing a precinct or in the district if representing the district at large.

SECTION 8. SERVICE OF DIRECTORS. (a) Temporary directors serve until initial directors are elected under Section 10.

(b) Initial directors serve until permanent directors are elected under Section 11.

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

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

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

SECTION 9. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

(1) Phil Wallace - at large

(2) Roy Wicker - Precinct No. 1

(3) Horace Hancock - Precinct No. 2

(4) Doyle Darby - Precinct No. 3

(5) Earl Houston - Precinct No. 4

(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 10. 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, including a temporary director, 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 52.107, Water Code.

(c) At the confirmation and initial directors' election, the
temporary board of directors shall have the name of any candidate
filing for the office of director as provided by Subsection (b) of
this section placed on the ballot and blank spaces to write in the
names of other persons. If the district is created at the
election, the temporary board of directors, at the time the vote is
canvassed, shall declare the person who receives the most votes in
each precinct to be elected as director for that precinct and the
person who receives the most votes in the district to be elected as
director for the district at large. The district 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 11. 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 the directors for Precinct Nos. 1 and 3, who shall each serve two-year terms, and the directors for Precinct Nos. 2 and 4 and for the district at large, 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 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 Rudd

H.B. No. 530

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado 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 Llano Estacado Underground Water Conservation District, is created in Gaines County, subject to approval at a confirmation election under Section 10 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. DEFINITION. In this Act, "district" means the Llano Estacado Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Gaines County, Texas.

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 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. ELECTION OF DIRECTORS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this Act.

(b) One director shall be elected by the electors of the entire district and one director shall be elected from each county commissioners precinct by the electors of that precinct.

(c) A person shall indicate on the application for a place on the ballot the precinct that the person seeks to represent or that the person seeks to represent the district at large.

(d) At the first election after the county commissioners precincts are redrawn under Article V, Section 18, of the Texas Constitution, four new directors shall be elected to represent the precincts. The directors elected shall draw lots to determine their terms.

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H.B. No. 530

(b) A vacancy in the office of director shall be filled by appointment of the board until the next election for directors. If the position is not scheduled to be filled at the election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

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(4) Doyle Darby - Precinct No. 3

(5) Earl Houston - Precinct No. 4

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to
H.B. No. 530

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, including a temporary director, 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 52.107, Water Code.
(c) At the confirmation and initial directors' election, the temporary board of directors shall have the name of any candidate filing for the office of director as provided by Subsection (b) of this section placed on the ballot and blank spaces to write in the names of other persons. If the district is created at the election, the temporary board of directors, at the time the vote is canvassed, shall declare the person who receives the most votes in each precinct to be elected as director for that precinct and the person who receives the most votes in the district to be elected as director for the district at large. The district 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.
H.B. No. 530

(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 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.
February 15, 1991

The Honorable Ron Lewis, Chair
Committee on Natural Resources
Reagan Building, Room 214

Dear Chairman Lewis:

Below are the fiscal projections for my bill, HB 530, relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado Underground Water Conservation District.

1992 - $100,000
1993 - 75,000
1994 - 75,000
1995 - 75,000
1996 - 75,000

Please feel free to contact me if I can be of further service.

Sincerely,

Jim D. Rudd

/jfe
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. 530 by Rudd
Relating to the creation of the Llano Estacado 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,

Allen Beinke
Executive Director

Enclosures
cc: Representative Lewis, Chairman
    House Natural Resources Committee
    Representative Rudd
Water Development Policy Impact Statement for House Bill 530 (H.B. 530) Regular Session, 72nd Legislature, relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado Underground Water Conservation District follows.

Wells located within the confines of this proposed district, which encompasses all of Gaines County, obtain their water principally from the Ogallala (High Plains) aquifer which underlies the entire county. Additionally, Cretaceous rocks which are in hydrologic continuity with the Ogallala are considered to be part of the High Plains aquifer, can also yield water to wells. There appears to be no hydrogeologic justification for the determination of district boundaries. Gaines County has been included as part of a Water Commission/Water Development Board Critical Area study currently underway.

H.B. 530 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 proposed District is coterminous with the boundaries of Gaines County. In 1980, the population of Gaines County was 13,150 residents. The County’s population growth pattern over the last ten years reflects a
continuing increase in the number of residents with a 1990 population of 14,123. The Board’s projected population for Gaines County indicates a continuation of this trend over the next twenty years with a population ranging from 15,129 to 15,523 residents.

2) District finances - The financing of the district is authorized by reference to Chapter 52, Water Code. The district may issue and sell bonds, and levy ad valorem taxes to pay for all or part of the bonds and for the district’s maintenance. The tax rate is unlimited for the payment of bonds issued by the district. The tax rate shall not exceed 50 cents on each $100 of assessed valuation for maintenance taxes. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.

3) Board of directors & powers - This proposed district is to be governed by a board of seven directors. The bill provides for and describes three sets of boards of directors. These are a temporary board, an initial permanent board, and the permanent board. The temporary directors are listed in the act. If a temporary director fails to qualify for office, the qualified temporary directors shall appoint a person to fill the vacancy. In the event there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill the vacancies. Temporary directors serve until initial permanent directors are elected and the initial permanent directors serve until the permanent directors are elected. Other than initial permanent directors, permanent directors
serve staggered four-year terms. Each director serves until his successor has qualified. Each director must qualify in the manner provided by Sections 51.078 and 51.079, Texas Water Code.

The temporary board shall call and hold a confirmation election including the election of seven initial permanent directors. A person who desires to be a candidate for the office of initial permanent director may file an application with the temporary board to have their name printed on the ballot as provided by Section 52.107, Texas Water Code. At the election, the names of the seven persons serving as temporary directors, together with any candidate filing for the office of director, shall be placed on the ballot. The ballot shall also provide blank spaces to write in the names of other persons. If the district is created at this election, the temporary directors at the time the vote is canvassed, shall declare the persons who receive the most votes to be elected as the initial permanent directors. The district shall include the results of the election in its election report to the Texas Water Commission. Section 41.001(a), Election Code, does not apply to the confirmation election; however, it must be conducted as provided by Sections 52.059(b) - (g), Texas Water Code, and the Election Code.

On the first Saturday of May of the second year after the year in which the district is authorized to be created, an election shall be held for the election of three permanent directors who shall serve two-year terms and four permanent 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. Thus, the permanent directors
serve staggered four-year terms.

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** - Current and future water needs of the population, agriculture, and industries of Gaines County will continue to be supplied from ground water resources of the area. The Board finds that creation of the proposed District agrees with the Board's State Water Plan objectives of promoting the efficient use of ground-water resources and ground-water management programs for addressing local ground-water problems in order to enhance the availability and use 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).

Issuance of bonds and notes authorized for certain items must be approved by the Commission in the manner provided for in Chapter 52, Subchapter G, Texas Water Code. These include those authorized to: 1) erect or construct dams or to drain lakes, draws, depressions, and creeks; 2) install pumps and other equipment; and, 3) provide necessary facilities for the purchase, sale, transportation, and distribution of water.

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

7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.

8) **Adequacy of the boundary description** - The bill provides that the district include all the area of Gaines County, therefore, the boundary description is adequate in terms of closure. Portions of this county lie within Subdivision No. 4 of the Underground Water Reservoir in the Ogallala Formation, South of the Canadian River, which was delineated in 1956. This area was also part of
The South Plains Underground Water Conservation District No. 4, which was created in 1966 and ruled invalid by the Texas Supreme Court. Another attempt was made to form a district, but it was not confirmed by the voters. There are no apparent conflicts between the boundaries of this district and other existing entities. However, with the introduction of H.B. 456 which would create the Gaines County Solid Waste Disposal District encompassing the whole county, future coordination between the districts may be required.

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. There are no unusual or special powers or duties which have been granted to this district.

It is noted that Chapter 52 was amended in 1989 to remove references to Chapter 51. A new section was added to Chapter 52 providing for the oath of office taken by directors. This provision, Section 52.108, conflicts with Section 51.078 referenced specifically in H.B. 530. However, the bill does contain the standard language providing that the act shall prevail in cases of conflict with general laws.
By: Rudd (Senate Sponsor - Montford) H.B. No. 530
April 8, 1991, read first time and referred to Committee on Natural Resources; May 2, 1991, reported favorably by the following vote:
Yea 9, Nays 0; May 2, 1991, sent to printer.)

COMMITTEE VOTE

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A BILL TO BE ENTITLED
AN ACT

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SECTION 1. CREATION. (a) An underground water conservation district, to be known as the Llano Estacado Underground Water Conservation District, is created in Gaines County, subject to approval at a confirmation election under Section 10 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. DEFINITION. In this Act, "district" means the Llano Estacado Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Gaines County, Texas.

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 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. ELECTION OF DIRECTORS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this Act.

(b) One director shall be elected by the electors of the entire district and one director shall be elected from each county commissioners precinct by the electors of that precinct.

(c) A person shall indicate on the application for a place on the ballot the precinct that the person seeks to represent or that the person seeks to represent the district at large.

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(b) A vacancy in the office of director shall be filled by appointment of the board until the next election for directors. If the position is not scheduled to be filled at the election, the person elected to fill the position shall serve only for the remainder of the unexpired term.
(c) To be eligible to serve as director, a person must be a registered voter in the precinct from which the person is elected or appointed if representing a precinct or in the district if representing the district at large.

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(c) Permanent directors serve staggered four-year terms.
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(5) Earl Houston - Precinct No. 4
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(c) At the confirmation and initial directors' election, the temporary board of directors shall have the name of any candidate filing for the office of director as provided by Subsection (b) of this section placed on the ballot and blank spaces to write in the names of other persons. If the district is created at the election, the temporary board of directors, at the time the vote is canvassed, shall declare the person who receives the most votes in each precinct to be elected as director for that precinct and the person who receives the most votes in the district to be elected as director for the district at large. The district 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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(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.

* * * * *

Austin, Texas
May 2, 1991

Hon. Bob Bullock
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred H.B. No. 530, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Sims, Chairman
FAVORABLE
SENATE COMMITTEE REPORT ON

SB  SCR  SJR  SR  HB  HCR  HJR  S30
By: Rudd / Montford

(Author/Senate Sponsor)

5-2-91

(date of submission to Senate)

Lt. Governor Bob Bullock
President of the Senate

Sir:

We, your Committee on _________________, to which was referred the attached measure,

have on _________________, 5-1-91, had the same under consideration and I am instructed to report it

back with the recommendation (s) that it:

☑ do pass and be printed

() do pass and be ordered not printed

☑ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☐ yes () no

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

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

Considered by subcommittee. () yes () no

The measure was reported from Committee by the following vote:

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<td>Armbrister</td>
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<td>Sibley</td>
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</table>

TOTAL VOTES: 9

COMMITTEE ACTION

☑ S250 Considered in public hearing
☑ S270 Testimony taken

COMMITTEE CLERK

CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
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
TO: Honorable Bill Sims, Chairman  
   Committee on Natural Resources  
   Senate Chamber  
   Austin, Texas  

IN RE: House Bill No. 530, as engrossed  
By: Rudd  

FROM: Jim Oliver, Director  

In response to your request for a Fiscal Note on House Bill No. 530, as engrossed (relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado Underground Water Conservation District) this office has determined the following:  

No fiscal implication to the State is anticipated.  

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

Source: LBB Staff: JO, JWH, DF, JG, PA
February 15, 1991

The Honorable Ron Lewis, Chair
Committee on Natural Resources
Reagan Building, Room 214

Dear Chairman Lewis:

Below are the fiscal projections for my bill, HB 530, relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado Underground Water Conservation District.

1992 - $100,000
1993 - 75,000
1994 - 75,000
1995 - 75,000
1996 - 75,000

Please feel free to contact me if I can be of further service.

Sincerely,

Jim D. Rudd

/jfr
TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
John E. Birdwell, Commissioner
Cliff Johnson, Commissioner

John J. Vay, General Counsel
Michael E. Field, Chief Hearings Examiner
Brenda W. Foster, Chief Clerk

Allen Beinke, Executive Director
February 4, 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. 530 by Rudd

Relating to the creation of the Llano Estacado 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,

Allen Beinke
Executive Director

Enclosures
cc: Representative Lewis, Chairman
House Natural Resources Committee
Representative Rudd
TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE LLANO ESTACADO
UNDERGROUND WATER CONSERVATION DISTRICT

Water Development Policy Impact Statement for House Bill 530 (H.B. 530) Regular Session, 72nd Legislature, relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado Underground Water Conservation District follows.

Wells located within the confines of this proposed district, which encompasses all of Gaines County, obtain their water principally from the Ogallala (High Plains) aquifer which underlies the entire county. Additionally, Cretaceous rocks which are in hydrologic continuity with the Ogallala are considered to be part of the High Plains aquifer, can also yield water to wells. There appears to be no hydrogeologic justification for the determination of district boundaries. Gaines County has been included as part of a Water Commission/Water Development Board Critical Area study currently underway.

H.B. 530 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 proposed District is coterminous with the boundaries of Gaines County. In 1980, the population of Gaines County was 13,150 residents. The County's population growth pattern over the last ten years reflects a
continuing increase in the number of residents with a 1990 population of 14,123. The Board's projected population for Gaines County indicates a continuation of this trend over the next twenty years with a population ranging from 15,129 to 15,523 residents.

2) District finances - The financing of the district is authorized by reference to Chapter 52, Water Code. The district may issue and sell bonds, and levy ad valorem taxes to pay for all or part of the bonds and for the district's maintenance. The tax rate is unlimited for the payment of bonds issued by the district. The tax rate shall not exceed 50 cents on each $100 of assessed valuation for maintenance taxes. The board shall also include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.

3) **Board of directors & powers** - This proposed district is to be governed by a board of seven directors. The bill provides for and describes three sets of boards of directors. These are a temporary board, an initial permanent board, and the permanent board. The temporary directors are listed in the act. If a temporary director fails to qualify for office, the qualified temporary directors shall appoint a person to fill the vacancy. In the event there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill the vacancies. Temporary directors serve until initial permanent directors are elected and the initial permanent directors serve until the permanent directors are elected. Other than initial permanent directors, permanent directors
serve staggered four-year terms. Each director serves until his successor has qualified. Each director must qualify in the manner provided by Sections 51.078 and 51.079, Texas Water Code.

The temporary board shall call and hold a confirmation election including the election of seven initial permanent directors. A person who desires to be a candidate for the office of initial permanent director may file an application with the temporary board to have their name printed on the ballot as provided by Section 52.107, Texas Water Code. At the election, the names of the seven persons serving as temporary directors, together with any candidate filing for the office of director, shall be placed on the ballot. The ballot shall also provide blank spaces to write in the names of other persons. If the district is created at this election, the temporary directors at the time the vote is canvassed, shall declare the persons who receive the most votes to be elected as the initial permanent directors. The district shall include the results of the election in its election report to the Texas Water Commission. Section 41.001(a), Election Code, does not apply to the confirmation election; however, it must be conducted as provided by Sections 52.059(b) – (g), Texas Water Code, and the Election Code.

On the first Saturday of May of the second year after the year in which the district is authorized to be created, an election shall be held for the election of three permanent directors who shall serve two-year terms and four permanent 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. Thus, the permanent directors
serve staggered four-year terms.

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** - Current and future water needs of the population, agriculture, and industries of Gaines County will continue to be supplied from ground water resources of the area. The Board finds that creation of the proposed District agrees with the Board's State Water Plan objectives of promoting the efficient use of ground-water resources and ground-water management programs for addressing local ground-water problems in order to enhance the availability and use 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).

Issuance of bonds and notes authorized for certain items must be approved by the Commission in the manner provided for in Chapter 52, Subchapter G, Texas Water Code. These include those authorized to: 1) erect or construct dams or to drain lakes, draws, depressions, and creeks; 2) install pumps and other equipment; and, 3) provide necessary facilities for the purchase, sale, transportation, and distribution of water.

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

7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district.

8) **Adequacy of the boundary description** - The bill provides that the district include all the area of Gaines County, therefore, the boundary description is adequate in terms of closure. Portions of this county lie within Subdivision No. 4 of the Underground Water Reservoir in the Ogallala Formation, South of the Canadian River, which was delineated in 1956. This area was also part of
The South Plains Underground Water Conservation District No. 4, which was created in 1966 and ruled invalid by the Texas Supreme Court. Another attempt was made to form a district, but it was not confirmed by the voters. There are no apparent conflicts between the boundaries of this district and other existing entities. However, with the introduction of H.B. 456 which would create the Gaines County Solid Waste Disposal District encompassing the whole county, future coordination between the districts may be required.

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. There are no unusual or special powers or duties which have been granted to this district.

It is noted that Chapter 52 was amended in 1989 to remove references to Chapter 51. A new section was added to Chapter 52 providing for the oath of office taken by directors. This provision, Section 52.108, conflicts with Section 51.078 referenced specifically in H.B. 530. However, the bill does contain the standard language providing that the act shall prevail in cases of conflict with general laws.
AFFIDAVIT TO PRINTED COPY OF PUBLICATION

Before me, the undersigned authority, on this day personally appeared _______________, who on his oath stated:

I am the _______________ of the SEMINOLE SENTINEL, a newspaper published in GAINES COUNTY, TEXAS, and know the facts stated in this affidavit. The above printed matter is a true and correct copy of the publication of the citation of which it purports to be a copy, as the same appeared in such newspaper in the respective issues of the _______________, _______________, and _______________ days of December 90 __________; the charge of the proprietor of such newspaper for such publication being _______________, _______________ dollars.

Subscribed and sworn to before me, this _______________ day of _______________, __________, to certify which, witness my hand and seal of office.

PAULA KUBICEK
Notary Public, State of Texas
My Commission Expires 13-02-90

Notary Public, Gaines County, Texas
NOTICES

NOTICE OF INTENT

This is to give notice of the intent to introduce a bill in the 72nd Legislature — to be entitled an act relating to the creation of the Llano Estacado Underground Water Conservation District, the boundaries of which would be identical to the County of Gaines boundaries.

Published in The Seminole Sentinel on December 23rd, 1990.
REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

Hon. Bill Haley, Chairman
Administration Committee

Sir:

Notice is hereby given that HB 530, by: Montford, (Bill No.) (author)
was heard by the Committee on Natural Resources on 5-1 1991, and reported out with the recommendation that it be placed on the Local Uncontested Bills Calendar.

Clerk of the reporting committee

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE BILL OR RESOLUTION SHOULD BE DELIVERED TO 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.
AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Llano Estacado 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 Llano Estacado Underground Water Conservation District, is created in Gaines County, subject to approval at a confirmation election under Section 10 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. DEFINITION. In this Act, "district" means the Llano Estacado Underground Water Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Gaines County, Texas.

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 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. ELECTION OF DIRECTORS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this Act.

(b) One director shall be elected by the electors of the entire district and one director shall be elected from each county commissioners precinct by the electors of that precinct.

(c) A person shall indicate on the application for a place on the ballot the precinct that the person seeks to represent or that the person seeks to represent the district at large.

(d) At the first election after the county commissioners precincts are redrawn under Article V, Section 18, of the Texas Constitution, four new directors shall be elected to represent the precincts. The directors elected shall draw lots to determine their terms.

SECTION 7. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.
(b) A vacancy in the office of director shall be filled by appointment of the board until the next election for directors. If the position is not scheduled to be filled at the election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

(c) To be eligible to serve as director, a person must be a registered voter in the precinct from which the person is elected or appointed if representing a precinct or in the district if representing the district at large.

SECTION 8. SERVICE OF DIRECTORS. (a) Temporary directors serve until initial directors are elected under Section 10.

(b) Initial directors serve until permanent directors are elected under Section 11.

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

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

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

SECTION 9. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

(1) Phil Wallace - at large
(2) Roy Wicker - Precinct No. 1
(3) Horace Hancock - Precinct No. 2
(4) Doyle Darby - Precinct No. 3
(5) Earl Houston - Precinct No. 4

(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 10. 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, including a temporary director, 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 52.107, Water Code.
(c) At the confirmation and initial directors' election, the temporary board of directors shall have the name of any candidate filing for the office of director as provided by Subsection (b) of this section placed on the ballot and blank spaces to write in the names of other persons. If the district is created at the election, the temporary board of directors, at the time the vote is canvassed, shall declare the person who receives the most votes in each precinct to be elected as director for that precinct and the person who receives the most votes in the district to be elected as director for the district at large. The district 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 11. 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 the directors for Precinct Nos. 1 and 3, who shall each serve two-year terms, and the directors for Precinct Nos. 2 and 4 and for the district at large, 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 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. 530

President of the Senate

I certify that H.B. No. 530 was passed by the House on April 2, 1991, by the following vote: Yeas 146, Nays 0, 1 present, not voting.

Speaker of the House

Chief Clerk of the House

I certify that H.B. No. 530 was passed by the Senate on May 10, 1991, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: ______________________

Date

Governor
H. B. No. 530

A BILL TO BE ENTITLED

AN ACT

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

JAN 23 1991

1. Filed with the Chief Clerk.

FEB 6 1991

2. Read first time and Referred to Committee on

NATURAL RESOURCES

MAR 4 1991

3. Reported favorably (as substituted) and sent to Printer at 11:03 a.m.

MAR 7 1991

4. Printed and distributed at 9:00 a.m.

MAR 8 1991

5. Sent to Committee on Calendars at 8:33 a.m.

MAR 27 1991

6. Read second time (failed); passed to third reading (Non-Record Vote).

7. Motion to reconsider and table the vote by which H. B. ___ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, and ___ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of ___ yeas, ___ nays, and ___ present, not voting.

APR 2 1991

9. Read third time amended; finally passed (passed by Non-Record Vote) (Record Vote of ___ yeas, ___ nays, ___ present, not voting).

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

11. Motion to reconsider and table the vote by which H. B. ___ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, and ___ present, not voting).

APR 2 1991

12. Ordered Engrossed at 1:45 p.m.

APR 2 1991

13. Engrossed.

APR 3 1991

14. Returned to Chief Clerk at 6:55 p.m.

APR 3 1991

15. Sent to Senate.

Chief Clerk of the House

APR 3 1991

16. Received from the House

APR 8 1991

17. Read, referred to Committee on NATURAL RESOURCES

MAY 2 1991

18. Reported favorably

MAY 2 1991

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

MAY 2 1991

20. Ordered not printed.

MAY 2 1991

21. Regular order of business suspended by (a viva voce vote.)

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

MAY 10 1991

23. Read second time passed to third reading by:
   (viva voce vote.)
   _______ yea, _______ nays.

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

MAY 10 1991

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

MAY 10 1991

26. Read third time and passed by
   (viva voce vote.)
   _______ yea, _______ nays.

OTHER ACTION:

SECRETARY OF THE SENATE

27. Returned to the House.

MAY 10 1991

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

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

30. Conference Committee Ordered.

MAY 10 1991

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

32. Ordered Enrolled at _______