

BILL ANALYSIS

C.S.H.B. 4123
By: Nevárez
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that there is a need to manage, protect, and preserve the aquifers that are located within the geographical boundaries of Val Verde County. C.S.H.B. 4123 seeks to address this need.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4123 amends the Special District Local Laws Code to create the Val Verde County Groundwater Conservation District, but the bill dissolves the district September 1, 2020, and sets the bill's provisions to expire September 1, 2022, if the creation of the district is not confirmed at a confirmation election before September 1, 2020. The bill provides for, among other provisions, limited district powers before the district's confirmation; district permits and rules, including permits for landowners, the City of Del Rio, retail public utilities, agricultural irrigation, and commerce and industry; well registration; recognition of certain property rights; the reduction and curtailment of groundwater production; establishment of management zones; permit renewals; limitations on well permit requirements; certain right of a district employee or agent to enter land; creation of a water conservation initiative; and regional groundwater planning. The bill caps the district property tax rate at five cents on each \$100 valuation of taxable property in the district and provides for the applicability of certain tax provisions. The bill provides for certain district production, export, and administrative fees. The bill prohibits the district from purchasing, selling, transporting, or distributing surface water or groundwater for any purpose and from exercising the power of eminent domain.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4123 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. CREATION. A groundwater conservation district, to be known as the Val Verde County Groundwater Conservation District, is created in Val Verde County, subject to approval at a confirmation election under Section 7 of this Act.

SECTION 2. FINDINGS OF BENEFIT.

(a) The district is created to serve a public use and benefit.

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

(c) 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 Section 59, Article XVI, Texas Constitution.

SECTION 3. CONTINUING PROVISIONS OF DISTRICT. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 01 to read as follows:

CHAPTER 01. VAL VERDE COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 01.001 DEFINITIONS.

In this chapter:

(1) "Agricultural use" means any use or activity involving agriculture, including irrigation.

(2) "Agriculture" means any of the following activities:

(A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;

(B) the practice of floriculture viticulture, silviculture, and horticulture, including the cultivation of plants in containers of nonsoil media, by a nursery grower;

(C) raising, feeding, or keeping animals, other than fish, for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

(See Sec. 8872.002 below.)

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8872 to read as follows:

CHAPTER 8872. VAL VERDE COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8872.001. DEFINITIONS. (a) Except as provided by Subsection (b), the definitions in Section 36.001, Water Code, apply to this chapter.

(b) In this chapter:

commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;

(E) wildlife management, including hunting, fishing, sightseeing, bird watching and other outdoor recreational activities; and

(F) raising or keeping equine animals.

(3) "Board" means the board of directors of the district.

(4) "Director" means a member of the board.

(5) "District" means the Val Verde County Groundwater Conservation District.

(6) "Domestic use" means use in the district of water by a person owning the well from which the water is withdrawn and by that person's household, employees, tenants, licensees or guests for:

(A) drinking, washing, or culinary purposes;

(B) irrigation of lawns;

(C) irrigation of a family garden or orchard the produce of which is for household consumption only;

(D) swimming pools, decorative ponds, or fountains on the person's property or;

(E) watering of domestic animals not raised, maintained, or sold for commercial purposes.

(7) "Greatest water usage" means the highest sum for a given calendar year of: (i) groundwater produced; and (ii) water used pursuant to a water right as defined in Section 11.002(5), Water Code.

(1) "Aquifer" means that part of the Edwards-Trinity (Plateau) Aquifer located in Val Verde County.

(2) "Board" means the board of directors of the district.

(3) "City" means the City of Del Rio.

(4) "Commissioners court" means the Val Verde County Commissioners Court.

(5) "Director" means a member of the board.

(6) "District" means the Val Verde County Groundwater Conservation District.

(7) "Domestic use" means the use of groundwater in the district by a member of a well owner's household or by household employees, tenants, licensees, or guests for the following purposes:

(A) drinking, washing, or culinary activities;

(B) irrigation of:

(i) lawns;

(ii) family gardens; or

(iii) orchards, if the produce of the orchard is used only for household consumption;

(C) filling or maintaining swimming pools, decorative ponds, or fountains located on the well owner's property; and

(D) drinking water for domestic animals not raised, maintained, or sold for commercial purposes.

(8) "Existing well" means a well that is completed to produce groundwater in Val Verde County on or before January 1, 2015. The term includes a well that is reworked or repaired after January 1, 2015, to restore the well's historic production capacity, provided that the reworking or repair does not enlarge the diameter of the well bore as the well bore existed on January 1, 2015.

(7) "Political subdivision" means a county, municipality, or other body politic or corporate of the state, including a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a state agency, or a nonprofit water supply corporation created under Chapter 67, Water Code.

(8) "Retail public utility" means an entity defined in Section 13.002(19), Water Code.

(9) "Del Rio Certificate of Adjudication" means the Certificate of Adjudication No. 23-2672 issued by the Texas Water Commission to the City of Del Rio on August 15, 1983.

SEC. 01.002. NATURE OF DISTRICT.

The district is a groundwater conservation district in Val Verde County created under Section 59, Article XVI, Texas Constitution.

SEC. 01.003. DISTRICT PURPOSE. The district is created to:

(1) provide for the protection, recharging, conserving, protecting, and prevention of waste of groundwater in Val Verde County;

(2) control subsidence caused by the withdrawal of water from the groundwater in Val Verde County;

(3) regulate the transport of groundwater out of the boundaries of the district;

(4) regulate pumping in the district to protect spring flow, base flow and drawdown;

(5) implement conservation plans and pumping reduction when conditions warrant action to protect spring flow, base flow and drawdown; and

(6) manage the issuance of permits, by requiring studies and groundwater availability model analysis of permit applications, that include conservation triggers that mitigate impact to spring flow,

(9) "Historic use" means the production and beneficial use of groundwater from an existing well in any calendar year before January 1, 2015.

(10) "Political subdivision" means a governmental entity of this state, including a county, municipality, state agency, or district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution. The term also includes a nonprofit water supply corporation created under Chapter 67, Water Code.

(11) "Retail public utility" has the meaning assigned by Section 13.002, Water Code.

(12) "Rural area" means an area that is located:

(A) inside the boundaries of the district; and

(B) outside the corporate boundaries and extraterritorial jurisdiction of a municipality in the district.

Sec. 8872.002. NATURE OF DISTRICT; PURPOSE. (a) The district is a groundwater conservation district in Val Verde County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution, including:

(1) the permitting, recharge, conservation, protection, and prevention of the waste of groundwater in Val Verde County;

(2) the control of subsidence caused by the unreasonable withdrawal of groundwater;

(3) the regulation of transporting groundwater outside the boundaries of the district;

(4) the regulation of groundwater production and the implementation of drought management and conservation plans for the reduction of drawdown when conditions warrant action to protect spring flow and base flow; and

(5) the management of the issuance of permits by requiring studies and groundwater availability model analyses of permit applications that include the use of conservation triggers to mitigate the impact

base flow and drawdown.
(See SECTION 2(a) above.)

(See SECTION 2(c) above.)

SUBCHAPTER B. TERRITORY

Sec. 01.004. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Val Verde County, Texas.

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 01.101. BOARD. The board shall be governed by five directors.

Sec. 01.102. METHOD OF APPOINTING SELECTING DIRECTORS:

(See Sec. 01.103 below.)

(a) The directors of the district shall be appointed or elected as provided by this section.

(b) One (1) director shall be appointed by the City Council of the City of Del Rio, Texas.

(c) One (1) director shall be appointed by the Commissioners court of Val Verde County, Texas.

(d) One (1) director shall be elected at-large by the voters of Val Verde, County.

(e) One (1) director shall be elected by the voters of Commissioner Precincts 2 and 3, combined, of the Commissioners Court of Val Verde County, as such precincts may be redrawn from time to time by such Commissioners Court.

(f) One (1) director shall be elected by the voters of Commissioner Precincts 1 and 4, combined, of the Commissioners Court of Val Verde County, as such precincts may be redrawn from time to time by such Commissioners Court

on spring flow, base flow, and drawdown.
(b) The district is created to serve a public use and benefit.

(c) All of the land and other property included within the boundaries of the district will benefit from the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution, this chapter, and Chapter 36, Water Code.

Sec. 8872.004. INITIAL DISTRICT TERRITORY. The boundaries of the district are coextensive with the boundaries of Val Verde County.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8872.051. COMPOSITION OF BOARD. The district is governed by a board of seven directors.

Sec. 8872.052. TERMS; APPOINTMENT AND ELECTION OF DIRECTORS; QUALIFICATIONS.

(a) Directors serve staggered four-year terms, with three or four terms expiring December 1 every other year. Directors are elected or appointed as follows:

(1) one director is elected from each of the four county commissioners precincts by the voters of the applicable precinct to be designated as the director whose place number matches the applicable precinct number;

(2) one director is elected by the voters of the district at-large to be designated as the director for place number five; and

(3) two directors who each own at least 1,000 acres of land in the rural area are appointed by the county judge of Val Verde County and the mayor of the city, respectively, to be designated as the directors for place numbers six and seven.

(g) To be eligible to serve as a director, a person must be a registered voter of Val Verde County, Texas.

(h) Elections for the director positions in subsections (d)-(f) of this Section shall be held in even-numbered years on the uniform election date in November.

Sec. 01.103. TERMS.

(a) Directors serve staggered four-year terms and may serve consecutive terms.

(b) Directors shall draw lots to determine which three directors shall serve a term expiring December 1 of the year two years after the date of the election in which the district is confirmed and which two directors shall serve a term expiring December 1 of the year four years after the date of the election in which the district is confirmed.

Sec. 01.104. VACANCIES. If there is a vacancy on the board, the board shall appoint a director to serve the remainder of the term.

Sec. 01.105. COMPENSATION. (a) A director is not entitled to receive fees of office for performing the duties of a director.

(b) The board may authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities outside the district on behalf of the board.

(b) To be elected or appointed under this section, a person must be at least 18 years of age and:

(1) a registered voter of Val Verde County; and

(2) if elected from a commissioners court precinct, a resident of that precinct.

(c) An election to elect directors must be held on the uniform election date in November of even-numbered years.

(See Sec. 8872.052 above.)

(d) A director may serve consecutive terms.

Sec. 8872.053. VACANCIES. (a) If there is a vacancy on the board, a majority of the board shall appoint a person to fill the vacancy for the remainder of the term of the vacant director place. The person appointed to fill the vacancy must meet the qualifications under Section 8872.052 for the vacant place.

(b) If the board has not filled a vacancy before the 90th day after the date of the vacancy, the county judge of Val Verde County and the mayor of the city shall jointly appoint a person that meets the qualifications under Section 8872.052 for the vacant place to serve as director for the remainder of the term being filled.

Sec. 8872.054. COMPENSATION. (a) A director is not entitled to receive compensation for performing the duties of a director.

(b) The board may authorize a director to receive reimbursement for the director's reasonable and actual expenses incurred while engaging in activities inside or outside the district on behalf of the board.

No equivalent provision.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 01.150. POWERS AND DUTIES. Except as otherwise provided by this chapter, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Sec. 01.151 PERMITS TO PUMP GROUNDWATER.

(a) The district by rule shall:

(1) require a person to obtain a permit from the district to pump groundwater unless exempted under other sections of this legislation; and

(2) regulate the terms of a transfer of

Sec. 8872.055. ELECTION OF BOARD OFFICERS. (a) At the first meeting of the board in each calendar year, the board shall elect directors to serve as the president, vice president, secretary, and treasurer.

(b) The president shall serve as the presiding officer of the board.

(c) The treasurer shall serve as the financial officer of the district.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8872.101. GENERAL POWERS. (a) Except as otherwise provided by this chapter, the district has all of the rights, powers, privileges, functions, and duties provided by the general law of this state applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution, including Chapter 36, Water Code.

(b) Before confirmation of the district, the district's powers are limited to:

(1) performance of the duties necessary to hold an election to confirm the creation of the district;

(2) registration of existing wells that are not exempt from the district requirement to obtain a permit under this chapter or Chapter 36, Water Code;

(3) collection of annual groundwater production reports from wells that are not exempt from the district requirement to obtain a permit under this chapter or Chapter 36, Water Code; and

(4) participation in joint planning with other districts as provided by Section 8872.021(e).

(c) The district shall adopt rules and prescribe forms necessary to implement Subsections (b)(2) and (3).

(d) Section 36.121, Water Code, does not apply to the district.

Sec. 8872.103. PERMITS: RULES. (a)

The district shall adopt rules to:

(1) require a person to obtain a permit from the district to drill and produce groundwater from a well, including an existing well, unless the well is exempt from permitting under this chapter or Chapter 36, Water Code;

(2) regulate the terms of a transfer of

groundwater out of the district.

(b) The district shall develop rules under this section that:

(1) are consistent with the requirements of Section 36.122, Water Code, except as otherwise provided in Section 01.202(c) of this legislation; and

(2) provide for reduction and curtailment of groundwater pumping to protect spring flow, base flow and drawdown; and

(3) do not, in any event, seek to reduce or curtail usage or production under a water right as defined in Section 11.002(5), Water Code, including the Del Rio Certificate of Adjudication.

(c) To implement the rules developed under 01.151(b)(2) of this legislation, the district may make and enforce rules as authorized under Section 36.101(a), Water Code, and to the extent not otherwise authorized by Section 36.101(a), limit groundwater production based on acreage, tract size, spacing of wells, or the service area of a public water supplier.

(See Sec. 01.152(c) below.)

groundwater out of the district;

(3) regulate the spacing of wells drilled after September 1, 2015, to prevent unreasonable adverse interference with other wells;

(4) provide for the uniform and nondiscriminatory reduction or curtailment of the production of groundwater by all permit holders in the district, if necessary, to protect spring flow and base flow and reduce aquifer drawdown based on scientific data provided to the district;

(5) limit groundwater production:

(A) by the spacing of wells;

(B) by basing production on acreage or tract size; or

(C) for a public water supplier, by basing production on the service area of the supplier; and

(6) require the owner of a well that is not exempt from the district requirement to obtain a permit under this chapter or Chapter 36, Water Code, to report to the district in January of each year the annual production of groundwater from the well based on metered production.

(b) The terms of a permit that authorizes the production of groundwater for transfer out of the district for beneficial use must be consistent with applicable law, including Section 36.122, Water Code, and may not be more restrictive than the terms of a permit authorizing the production of groundwater for beneficial use inside the district.

(c) The district may establish permit conditions and limitations as provided by Section 36.122, Water Code.

Sec. 8872.111. REDUCTION AND CURTAILMENT. (a) The board by rule may provide for the reduction and curtailment of the production of groundwater from a well permitted under this chapter to protect spring flow and base flow and reduce drawdown in accordance with Sections 8872.103(a)(4) and (5).

(b) To implement a reduction or curtailment, the district may, to the extent not otherwise authorized by Section 36.101(a), Water Code, limit groundwater production as provided by district rules.

(c) Rules adopted by the board requiring a reduction or curtailment of the production of groundwater must be applied on a proportional, uniform, and nondiscriminatory basis to all permitted production, unless the condition requiring reduction or curtailment is limited to a management zone created under Section 8872.112.

Sec. 8872.112. MANAGEMENT ZONES.

(a) If the district determines based on scientific data received by the district in a meeting held for that purpose that conditions in or use of an aquifer differ substantially between hydrogeological areas of the district, the district may establish management zones to better manage the groundwater resources and adopt different rules to regulate production from the management zones based on acreage, tract size, or the service area of a public water supplier. In creating management zones, the district may consider:

(1) each aquifer, subdivision of an aquifer, or geologic strata located wholly or partly within the district; or

(2) each geographic area overlying an aquifer or subdivision of an aquifer located wholly or partly within the district.

(b) The district must regulate the production of groundwater in a management zone on a proportional, uniform, and nondiscriminatory basis.

(c-1) Any district rules or enforcement of rules requiring reductions or curtailments on the production of groundwater otherwise authorized by permit shall be applied proportionally to all such permitted production.

(d) For better management of the groundwater resources located in the district, if the district determines that conditions in or use of an aquifer differ substantially from one geographic area of the district to another, the district may adopt different rules regulating production from management zones based on acreage, tract size, or the service area of a public water supplier. In creating management zones, the district may consider:

(1) each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the district; or

(2) each geographic area overlying an aquifer or subdivision of an aquifer located in whole or in part within the boundaries of the district.

Sec. 01.152. PERMITS FOR USE

SOLELY INSIDE DISTRICT.

(a) The district shall grant the City of Del Rio a permit in the city's name that authorizes the city to pump from all city wells annually a cumulative volume of groundwater that is not less than the greatest water usage in a calendar year before the date the district is confirmed. The permit shall be for use solely inside the district.

(b) In addition to the permit in Section 01.152(a), the district shall grant a permit to each existing political subdivision and retail public utility in the district that authorizes each such political subdivision and retail public utility to pump from its wells annually a volume of water that is not less than the greatest water usage by such political subdivision and retail public utility in a calendar year before the date the district is confirmed. The permit shall be for use solely inside the district.

(c) Nothing in this section, or in Section 01.053(a)(1), shall be considered a limitation under Section 36.122(c), Water Code, on the district's authority to establish permit conditions for transporters.

Sec. 01.153. EXEMPTIONS.

(a) The district shall not require a person to obtain a permit from the district for groundwater production from a well if the well is not capable of producing more than 72,000 gallons a groundwater a day and the groundwater is used inside the district.

Sec. 8872.105. PERMITS: CITY. The district shall grant the city permits in the city's name that authorize the city to pump from all wells operated or controlled by the city a cumulative volume of groundwater of 18,400 acre-feet per year.

Sec. 8872.106. PERMITS: RETAIL PUBLIC UTILITY. (a) The district shall grant a permit to a retail public utility in the district or to a political subdivision other than the city that is providing water or sewer service on or before the effective date of the Act enacting this chapter. The permit must authorize the production of a cumulative volume of groundwater from the wells owned by the entity in an amount equal to the amount of groundwater required to meet the entity's current and projected needs as determined under Section 13.250, Water Code.

(b) The permitted entity may not resell the groundwater produced under the permit to any person for use or resale outside the entity's service area, including the area covered by a certificate of convenience and necessity, and must put the water to beneficial use within the entity's service area.

(See Sec. 8872.103(b) above.)

Sec. 8872.114. LIMITATION ON WELL PERMIT REQUIREMENTS.

(a) The district may not require a person to install a meter or obtain a permit from the district for:

(1) a well drilled after January 1, 2015, and used to produce groundwater solely inside the district for domestic use or for another exempt purpose on a tract of land not larger than 10 acres and that produces not more than 30,000 gallons of groundwater a day, notwithstanding the production capability of the well; or

(2) a well drilled after January 1, 2015, and used to produce groundwater solely inside the district for domestic use or for another exempt purpose on a tract of land larger

(a-1) Nothing in Section 01.153(a) makes Section 36.113(a), Water Code, inapplicable in the district.

(b) An owner of a well described in this section may be required to register the well with the district.

(c) An owner of a well is entitled to a permit exemption under this section only if water from the well is used solely inside the district. If any water from a well is directly or indirectly (other than through an agricultural crop) used outside the district, the well owner must obtain a permit for its production, in addition to any permits that must be obtained for its use outside the district.

(d) The district may not require a permit or a permit amendment for maintenance or repair of a well if the maintenance or repair does not increase the production capabilities of the well to more than its authorized or permitted production rate.

Sec. 01.154. PROHIBITION OF DISTRICT PURCHASE, SALE, OR DISTRIBUTION OF WATER. The district may not purchase, sell, transport, or distribute surface water or groundwater for any purpose.

Sec. 01.155. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain.

Sec. 01.156. GROUNDWATER FLOW MODEL.

(a) The district shall develop a district

than 10 acres and that produces not more than 72,000 gallons of groundwater a day, notwithstanding the production capability of the well.

(d) Nothing in Subsection (a) prevents the applicability in the district of Section 36.113(a), Water Code.

(b) An owner of a well described by this section shall register the well with the district.

(c) The district may not require a permit or a permit amendment for the maintenance or repair of a well that is not exempt from permitting under this chapter or Chapter 36, Water Code, if the maintenance or repair does not make the well capable of producing an amount of groundwater that is greater than the production amounts provided by the well's permit.

(e) The owner of an existing well is exempt from the district's production permit requirements provided that the groundwater produced is for domestic use.

(f) The owner of a well is exempt from the district's permit requirements provided that any groundwater produced is for agricultural use.

Sec. 8872.115. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. The district may not purchase, sell, transport, or distribute surface water or groundwater for any purpose.

Sec. 8872.102. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

No equivalent provision.

specific model which shall be used in conjunction with joint planning in the management area process found in Section 36.108 of the Texas Water Code. Until a subsequent study is determined by the district board of directors to be more appropriate, the district shall use as its model the Val Verde County/City of Del Rio Hydrogeological Study dated May 2014 by EcoKai Environmental, Inc. and William R. Hutchison, Ph.D, P.E., P.G.

(b) Applicants for transfer will be required to pay for any cost to run updated modeling of the effects of the proposed pumping on the aquifer and spring flow, base flow and drawdown. The district will utilize the information provided by the model in considering the applications.

(c) The district can require any other permit applicant to pay for the cost of the model utilization, if it deems the volume of pumping warrants model review.

Sec. 01.157. WATER CONSERVATION INITIATIVE. The district may create a water conservation initiative as described by Section 11.32, Tax Code.

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 01.201. LIMITATION ON TAXES.

(a) The district may not levy ad valorem taxes at any rate that exceeds five (5) cents on each \$100 of assessed valuation of taxable property in the district.

(b) Sections 26.04, 26.05 and 26.06 of the Texas Tax Code do not apply to a tax levied and collected by the District. Instead, the District must follow the requirements under Section 49.236 of the Texas Water Code.

Sec. 01.202. FEES.

(a) The board by rule may impose reasonable and equitable fees on each well:

(1) for which a permit is issued by the district; and

(2) that is not exempt from district

Sec. 8872.117. WATER CONSERVATION INITIATIVE. The district may create a water conservation initiative as provided by Section 11.32, Tax Code.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8872.151. LIMITATION ON TAXES.

The district may not impose ad valorem taxes at a rate that exceeds five cents on each \$100 valuation of taxable property in the district.

Sec. 8872.152. APPLICABILITY OF CERTAIN TAX PROVISIONS. (a) Sections 26.04, 26.05, 26.06, and 26.07, Tax Code, do not apply to a tax imposed by the district.

(b) Section 49.236, Water Code, as added by Chapter 248 (H.B. 1541), Acts of the 78th Legislature, Regular Session, 2003, applies to the district.

Sec. 8872.153. FEES.

(a) The board by rule may impose uniform, reasonable, equitable, and nondiscriminatory annual production fees on the amount of permitted water actually produced from each well.

regulation.

(b) A production fee may be based on:

(1) the size of column pipe used by the well, or

(2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) In addition to the production fee authorized under this section, the district shall assess a reasonable export fee on groundwater produced from a well and transported outside the district.

(d) A district may set fees by rule or resolution for administrative acts of the district such as filing applications, reviewing and processing permits, conducting permit hearings, cost of public notices, legal fees, expert fees, hearing facility rental fees and other fees.

(e) Nothing in this section authorizes the board to impose a production fee on water used or produced under a water right as defined in Section 11.002(5), Water Code, including under the Del Rio Certificate of Adjudication.

SECTION 5. APPOINTMENT OF TEMPORARY DIRECTORS

(a) Not later than the 45th day after the effective date of this Act:

(1) the Val Verde County Commissioners Court shall appoint two temporary directors;

(2) the Del Rio City Council shall appoint two temporary directors; and

(3) the Val Verde County Judge and the Mayor of Del Rio shall jointly appoint one temporary director.

(b) A production fee must be consistent with Section 36.205, Water Code, and may be based on:

(1) the size of column pipe used by the well; or

(2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) The district may assess a uniform and nondiscriminatory export fee consistent with Section 36.122, Water Code, on groundwater that is produced from a well inside the district and transferred outside the district.

(d) The district may set fees by rule or resolution relating to administrative acts of the district, including filing applications, reviewing and processing permits, conducting permit hearings, providing public notice, and paying costs of legal fees, expert fees, and hearing facility rental fees. The district may not assess a fee in an amount greater than \$250 for processing permits.

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8872.021. APPOINTMENT OF TEMPORARY DIRECTORS;

VACANCIES; TERMS. (a) As soon as practicable after the effective date of the Act enacting this chapter, seven temporary directors shall be appointed as follows:

(1) three temporary directors shall be appointed by the commissioners court;

(2) three temporary directors shall be appointed by the city council of the city; and

(3) one temporary director shall be appointed jointly by the county judge of Val Verde County and the mayor of the city.

(b) An individual appointed to serve as a temporary director must be at least 18 years of age and be a registered voter of Val Verde County.

(c) If there is a vacancy on the temporary board of directors of the district, the remaining temporary directors shall appoint

(b) Temporary directors serve until temporary directors become initial directors as provided by Section 8 of this Act or until this Act expires under Section 12, whichever occurs earlier.

(c) Before the confirmation election, the presiding officer of the district or the presiding officer's designee may represent the district in the joint planning process found in Section 36.108 of the Texas Water Code and such designee shall be considered a voting representative.

SECTION 6. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055 of the Texas Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If no location can be agreed upon, the organizational meeting shall be at the Val Verde County Courthouse.

SECTION 7. CONFIRMATION ELECTION.

(a) The temporary directors shall hold an election to confirm the creation of the district.

a person to fill the vacancy in a manner that meets the representational requirements of this section.

(d) Temporary directors serve until the earlier of:

(1) the date the temporary directors become initial directors under Section 8872.024; or

(2) the date this chapter expires under Section 8872.003.

(e) Before the confirmation election under Section 8872.023, the presiding officer of the district or the presiding officer's designee may represent the district in the joint planning process under Section 36.108, Water Code, and shall be considered a voting district representative.

Sec. 8872.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. (a) As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Val Verde County Courthouse.

(b) At the organizational meeting described by Subsection (a), the temporary directors shall:

(1) elect a president as presiding officer, vice president, secretary, and treasurer;

(2) schedule the confirmation election described by Section 8872.023; and

(3) notify the applicable groundwater management area of the district's creation, subject to confirmation under Section 8872.023.

Sec. 8872.023. CONFIRMATION ELECTION.

(a) The temporary board shall order an election to be held on the first available uniform election date in November following January 1, 2016, to confirm the creation of the district and authorize the collection of taxes.

(b) The ballot for the election must be printed to permit voting for or against the following proposition: "The creation of the Val Verde County Groundwater

(b) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code.

(c) The district may hold a subsequent confirmation election if the previous confirmation election fails to pass. A subsequent confirmation election may not be held sooner than one year after the date of the previous confirmation election.

(d) The confirmation election ballot shall be printed to permit voting for or against the proposition: "To create the Val Verde County Groundwater Conservation District and to authorize a rate not to exceed 5 cents for each \$100 valuation of all taxable property in the district."

(e) The costs of an election held under this chapter may be paid by Val Verde County and the City of Del Rio.

(f) If the establishment of the district is not confirmed at an election held under this section before September 1, 2020, the district is dissolved, except that:

- (1) any debts incurred shall be paid;
- (2) any assets that remain after the payment of the debts shall be transferred to Val Verde County and the City of Del Rio in proportion to the amounts each has contributed to the costs of the confirmation election and district operations; and
- (3) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred.

SECTION 8. INITIAL DIRECTORS
If creation of the district is confirmed at an election held under Section 7 of this Act, the

Conservation District and the imposition of an ad valorem tax in the district at a rate not to exceed five cents for each \$100 of assessed valuation."

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code.

(d) If the district's creation is not confirmed at an election held under this section, the temporary directors may order one or more subsequent elections to be held to confirm the creation of the district not earlier than the first anniversary of the preceding confirmation election. If the district's creation is not confirmed at an election held under this section before September 1, 2020, the district is dissolved in accordance with Section 8872.003.

(e) The costs of an election held under this chapter shall be paid by Val Verde County and the city.

Sec. 8872.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8872.023 before September 1, 2020:

(1) the district is dissolved September 1, 2020, except that:

- (A) any debts incurred shall be paid;
 - (B) any assets that remain after the payment of debts shall be transferred to Val Verde County and the city in proportion to the amount each entity has contributed to the costs of the confirmation election and district operations; and
 - (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and
- (2) this chapter expires September 1, 2022.

Sec. 8872.024. INITIAL DIRECTORS. (a) If the creation of the district is confirmed at an election held under Section 8872.023, the

temporary directors of the district become the initial directors of the district and serve on the board of directors until replaced according to Section 01.102.

temporary directors become the initial directors and serve until permanent directors are elected or appointed under Section 8872.052.

(b) The initial directors of the board shall draw lots to determine which three directors shall serve a term expiring December 1 of the year two years after the date of the election in which the district is confirmed and which four directors shall serve a term expiring December 1 of the year four years after the date of the election in which the district is confirmed.

(c) The initial directors shall provide notice to the members of the groundwater management area in which the district is located that the creation of the district is confirmed.

No equivalent provision.

Sec. 8872.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2021.

No equivalent provision.

Sec. 8872.104. PERMITS: LANDOWNERS GENERALLY. (a) The district shall grant a permit that authorizes a person to drill one or more wells not to exceed 12 inches in diameter on land owned or controlled by the person through a lease or other legal right.

(b) Under this section, the district shall grant the drilling permit holder a permit for the production of groundwater not to exceed an actual production capacity of two acre-feet per year for each contiguous acre of land associated with the well.

(c) The district shall issue a production permit described by Subsection (b) for an existing well that has a diameter not greater than 12 inches for the production of groundwater not to exceed an actual production capacity of two acre-feet per year.

No equivalent provision.

Sec. 8872.107. PERMITS: AGRICULTURE. (a) A person is entitled to apply for and receive a permit granted for agricultural irrigation. The permit must authorize the production of groundwater necessary for the irrigation of crops equal to three acre-feet per year for each acre of land

inside the district using pivot, roller, echo drip, or bordered floor irrigation.

(b) A permit issued under this section is nontransferable and expires on the date the well ceases to be used solely for irrigation inside the district.

No equivalent provision.

Sec. 8872.108. PERMITS: COMMERCE AND INDUSTRY. The district shall grant a permit for the production of groundwater from an existing well that is beneficially used for commercial or industrial purposes outside the limits or the extraterritorial jurisdiction of the city. The permit must authorize the production of a cumulative volume of groundwater that is equal to the maximum historic use as proven by the person seeking the permit.

No equivalent provision.

Sec. 8872.109. WELL REGISTRATION. A permit issued under this chapter authorizing the production of groundwater from the aquifer must also authorize the drilling and operation of a well or wells in the aquifer, and must require the permit holder to:

- (1) register each well with the district; and
- (2) file a copy of the well driller's log with the district on completion of each well.

No equivalent provision.

Sec. 8872.110. PROPERTY RIGHTS. (a) A permit issued by the district for the drilling, operation, or production of a well is appurtenant to the real property on which the well is located. Ownership of the groundwater, or the right to use and produce the groundwater authorized by the permit, may be sold, leased, assigned, or otherwise transferred by the owner, provided that the rights granted by the permit to drill a well and to produce groundwater are exercised on the real property described in the permit based on the actual production authorized by the permit.

(b) Except as provided by this chapter, groundwater produced as authorized by a permit, once captured at the wellhead, may be beneficially used for any lawful purpose at any location, whether on or off the real property to which the permit is attached, provided that any beneficial use outside the boundaries of the district is authorized by a

transport permit issued by the district.

No equivalent provision.

Sec. 8872.113. PERMIT RENEWAL. (a) Except as provided by Subsection (b), the district shall without a hearing renew or approve an application to renew an operating permit before the date on which the permit expires, provided that:

(1) the application, if required by the district, is submitted in a timely manner and accompanied by any required fees in accordance with district rules; and

(2) the permit holder is not requesting a change related to the renewal that would require a permit amendment under district rules.

(b) The district is not required to renew a permit under this section if the applicant:

(1) is delinquent in paying a fee required by the district;

(2) is subject to a pending enforcement action for a substantive violation of a district permit, order, or rule that has not been settled by agreement with the district or a final adjudication; or

(3) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order, or rule.

(c) If the district is not required to renew a permit under Subsection (b)(2), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.

No equivalent provision.

Sec. 8872.116. RIGHT TO ENTER LAND. Section 36.123, Water Code, which authorizes a district's employees or agents to go on and inspect the property of a landowner, applies to the district provided that:

(1) access is subject to written notice to the landowner; and

(2) the district's employees and agents are prohibited from carrying firearms on the landowner's property.

No equivalent provision.

Sec. 8872.118. REGIONAL GROUNDWATER PLANNING. (a) The district shall obtain or develop groundwater models for use in planning and management of the aquifer and to assist the district in the

district's role as a member of the groundwater management area in which the district is located.

(b) The district, to the extent possible and through the designated representative for the groundwater management area in which the district is located, shall diligently pursue an increase in the managed available groundwater and an improvement in the desired future conditions for the aquifer as compared to those indicators for the aquifer on January 1, 2015.

SECTION 9. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS

(a) The 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 under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

(d) 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 10. EXPIRATION

(a) If the creation of the district is not confirmed at a confirmation election held under Section 7 of this Act before September 1, 2020, this Act expires on that date.

(b) The expiration of this Act does not affect the liability of the district to pay any debt incurred or the transfer of any assets remaining to Val Verde County and the City

SECTION 2.

(a) The 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 under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

(d) 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.

No equivalent provision. (*But see Sec. 8872.003 above.*)

of Del Rio as required by Section 7(f) of this Act.

SECTION 11. EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 3.

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.