

CHAPTER 65

S.B. No. 206

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

Be it enacted by the Legislature of the State of Texas:

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

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

SECTION 3. LEGISLATIVE FINDINGS. The legislature finds that:

- (1) the organization of the district is feasible and practicable;
- (2) the land to be included in and the residents of the district will be benefited by the creation of the district;
- (3) there is a public necessity for the district; and
- (4) the creation of the district will further the public welfare.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (3) the amount of money received by the district from all sources during the previous year;
- (4) the amount of money available to the district from all sources during the ensuing year;
- (5) the amount of the balances expected at the end of the year in which the budget is being prepared;
- (6) the estimated amount of revenues and balances available to cover the proposed budget; and
- (7) the estimated maintenance and operating tax rate that will be required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A maintenance and operating tax election may be held at the same time and in conjunction with the election to create the district. The procedure for calling and holding an

election and for canvassing returns of an election under this section is the same as for the creation election under Section 6 of this Act.

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

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

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

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

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

SECTION 62. 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.

Passed the Senate on March 6, 1985, by the following vote: Yeas 31, Nays 0; passed the House on April 18, 1985, by the following vote: Yeas 139, Nays 0, two present not voting.

Approved: May 2, 1985

Effective: Immediately