



House Committee On
Land and Resource Management
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OPINION COMMITTEE

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May 23, 2002

RQ-0557-JC

Attorney General John Cornyn
P.O. Box 12548
Austin, TX 78711-2548

FILE # Mh-42632-02
I.D. # 42632

Dear General Cornyn:

This letter will serve as written request for your opinion concerning issues related to the Middle Trinity Groundwater Conservation District. This district was created in the 77th Legislature by House Bill 3665 and includes the following eight counties: Somervell, Erath, Bosque, Coryell, Hamilton, Comanche, Callahan, and Eastland.

The confirmation election procedure as stated in HB 3665 Section 10 (d)-(e) allows for the district to be created only in counties that choose to confirm participation in the district. The controlling language of the Texas Water Code §§36.017 was taken into consideration when the legislation was drafted. Under that scenario, a county would not be given the option of electing to participate in the district but not grant taxing authority. However, Senate Bill 2 changed the Water Code.

Temporary directors in three of the eight counties of the proposed district called for a confirmation election on May 4, 2002. These counties were: Bosque, Erath, and Comanche counties. In Bosque County, voters did not confirm the creation of the district. In Erath County, voters confirmed both the creation of the district and granted taxing authority to \$.0175 per \$100 of assessed valuation. Comanche County voters confirmed the creation of the district but rejected granting taxing authority.

Does a county that elects to join a Groundwater Conservation District but does not grant taxing authority actually join the district?

MEMBERS:

FRED BROWN, CHARLIE GEREN, CHARLIE HOWARD,
MIKE KRUSEE, ANNA MOWERY, VICKI TRUITT, BOB TURNER



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If Comanche County is allowed into the district, the law suggests one of two scenarios:

1) Comanche County is officially part of the Middle Trinity GCD, but that no property taxes may be levied in the county for groundwater district operations, but such taxes could be levied in Erath County for district operations.

-Or-


2) A district will have taxing authority over every county if the cumulative totals in favor of taxing authority outnumber those opposing it.

If the second interpretation is correct, then we are presented with another question. Erath County approved taxing authority by a larger difference than it was defeated in Comanche County, so both counties would be in the Middle Trinity GCD and taxing authority would be granted to the entire district. **However, with five counties still yet to hold confirmation elections, does the law allow for the district to assess property taxes to pay for district operations until all counties hold confirmation elections?**

Also, at least two counties have expressed their desire to never call an election, so at what point are their temporary directors removed from the board if the board does not call an election in the county?

I respectfully request your opinion on this issue.

Sincerely,


Representative Gary L. Walker

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