

BILL ANALYSIS

Senate Research Center

S.B. 1537
By: Armbrister
Natural Resources
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Harris-Galveston Coastal Subsidence District was created by the 64th Legislature in 1975 for the purpose of preventing land surface subsidence in the Houston region. The Fort Bend Subsidence District was created in 1989 to address subsidence problems in Fort Bend County. The enabling acts of the two subsidence districts are very specific and set forth detailed provisions governing the powers and duties of the two districts. Additional general legal provisions are incorporated by reference to Chapter 36, Water Code. In the past several years, a number of changes have been made to Chapter 36, Water Code, that have created inconsistencies, duplication, and uncertainty with regard to the ability of the subsidence districts to properly respond to the subsidence problems in Harris, Galveston, and Fort Bend counties. In addition, the enabling acts of both districts are in need of minor updates, corrections, and clarifications.

S.B. 1537 amends the enabling acts of the Harris-Galveston Coastal Subsidence District and the Fort Bend Subsidence District to create a single source of statutory authority for each district by removing the references to Chapter 36, Water Code, and incorporating necessary provisions from general law. The bill also updates and revises the enabling acts of the two subsidence districts to clarify and correct certain provisions, such as deleting unnecessary boundary revision language, correcting minor changes made during codification, deleting unnecessary startup and temporary regulation provisions, clarifying certain notice provisions, and simplifying permit fee provisions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of directors of the Harris-Galveston Subsidence District in SECTION 6 (Sections 8801.059, Special District Local Laws Code) and SECTION 8 (Section 8801.108, Special District Local Laws Code) of this bill.

Rulemaking authority is expressly granted to the Harris-Galveston Subsidence District in SECTION 13 (Section 8801.119, Special District Local Laws Code) of this bill.

Rulemaking authority is expressly granted to the board of directors of the Fort Bend Subsidence District in SECTION 31 (Section 8, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989), SECTION 33 (Section 13, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989), SECTION 42 (Section 25, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989), and SECTION 45 (Section 36, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989) of this bill.

Rulemaking authority is expressly granted to the Fort Bend Subsidence District in SECTION 42 (Section 25, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989) of this bill.

Rulemaking authority previously granted to the board of directors of the Fort Bend Subsidence District is modified in SECTION 28 (Section 6, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989) and SECTION 36 (Section 17, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 8801, Special District Local Laws Code, to read as follows:

CHAPTER 8801. HARRIS-GALVESTON SUBSIDENCE DISTRICT

SECTION 2. Amends Section 8801.001, Special District Local Laws Code, by amending Subdivisions (1) and (3) and adding Subdivisions (1-a), (1-b), (3-a), (4-a), (4-b), and (5-a), to redefine "district" and define "agricultural crop," "beneficial use," "florist item," "nursery grower," "nursery product," and "waste." Makes a nonsubstantive change.

SECTION 3. Amends Sections 8801.002 and 8801.005, Special District Local Laws Code, as follows:

Sec. 8801.002. NATURE OF DISTRICT. Provides that the Harris-Galveston Subsidence District (HG district) is a conservation and reclamation district, rather than a groundwater conservation district.

Sec. 8801.005. DISTRICT TERRITORY. Deletes the provision that the HG district includes territory, as that territory may have been modified under Subchapter J (Adding Territory to District), Chapter 36, Water Code. Makes nonsubstantive changes.

SECTION 4. Amends Subchapter B, Chapter 8801, Special District Local Laws Code, by amending Sections 8801.052-8801.055 and adding Sections 8801.0551 and 8801.0552, as follows:

Sec. 8801.052. New heading: FEES OF OFFICE; REIMBURSEMENT. Sets forth the authorized fees of office and reimbursement that a director is entitled to receive. Requires a director to file with the HG district a verified statement that shows the number of days spent in performance of duties and a description of duties to receive reimbursement for expenses. Deletes existing text of this section.

Sec. 8801.053. BOARD POWERS AND DUTIES. Authorizes the board of directors of the HG district (HG board) to adopt bylaws and policies as necessary to accomplish its purposes. Authorizes the HG board to purchase materials, supplies, equipment, vehicles, and machinery needed by the HG district to accomplish its purposes. Creates a subsection from existing text.

Sec. 8801.054. OFFICERS. Requires the directors to select a chair and a vice chair, rather than a president and a vice-president. Sets forth the duties of the chair, vice chair, and secretary. Authorizes the HG board to authorize another director, the general manager, or any employee to execute documents on behalf of the HG district and to certify the authenticity of any record of the HG district. Creates a subsection from existing text.

Sec. 8801.055. MEETINGS. (a) Creates this subsection from existing text and makes a conforming change.

(b) Provides that a meeting of a committee of the HG board at which less than a quorum is present is not subject to the provisions of Chapter 551, Government Code.

(c) Requires the HG board to give notice of meetings of the board in a certain manner. Provides that failure to provide notice or an insubstantial defect in notice does not affect the validity of any action taken at the meeting.

Sec. 8801.0551. QUORUM. Provides that a majority of the membership of the HG board constitutes a quorum for any meeting, and a concurrence of a majority of the entire membership of the HG board is sufficient for transacting any district business.

Sec. 8801.0552. SWORN STATEMENT, BOND, AND OATH OF OFFICE. (a) Requires the director, as soon as practicable after appointment, to make the sworn statement prescribed by the constitution for public officers.

(b) Requires a director, as soon as practicable after making the sworn statement and before beginning to perform the duties of office, to take the oath of office prescribed by the constitution for public officers.

(c) Requires each director, before beginning to perform the duties of office, to execute a bond for \$10,000, payable to the HG district and conditioned on the faithful performance of the director's duties. Requires a director's bond to be approved by the HG board and paid by the HG district.

(d) Sets forth the procedures for filing the sworn statement, oath, and bond. Requires a duplicate original of the oath to be filed with the secretary of state within 10 days after its execution. Authorizes the new director to begin to perform the duties of office before the oath is filed.

SECTION 5. Amends Section 8801.057(a), Special District Local Laws Code, to authorize the HG board to delegate to the general manager full authority to manage HG district affairs or operate the HG district subject only to orders by the HG board.

SECTION 6. Amends Subchapter B, Chapter 8801, Special District Local Laws Code, by adding Sections 8801.059-8801.065, as follows:

Sec. 8801.059. EMPLOYEE BENEFITS. (a) Authorizes the HG board to provide for and administer retirement, disability, and death compensation funds for the employees of the HG district.

(b) Authorizes the HG board to establish a public retirement system and to provide for a deferred compensation plan.

(c) Authorizes the HG board to include hospitalization and medical benefits for its employees as part of the compensation paid, and to adopt or amend a plan or rule as necessary to provide hospitalization and medical benefits.

(d) Authorizes the HG board to establish a sick leave pool in a certain manner.

Sec. 8801.060. EXPENDITURES. (a) Sets forth the authorized methods of disbursement of the HG district's money. Authorizes the HG board by resolution to allow disbursements to be transferred by federal reserve wire system to accounts in the name of the HG district.

(b) Requires disbursements to be signed by at least two directors and creates an exception.

Sec. 8801.061. FISCAL YEAR. Provides that the fiscal year of the district is the calendar year.

Sec. 8801.062. ANNUAL AUDIT. Requires the HG board to annually order an audit of the financial condition of the HG district. Requires the annual audit and other district records to be open for inspection during regular business hours at the principal office of the HG district.

Sec. 8801.063. ANNUAL BUDGET. (a) Requires the HG board to adopt an annual budget.

(b) Requires the budget to contain a complete financial statement, and sets forth the figures required to be included in the budget.

(c) Authorizes HG board to amend the annual budget adopted under Subsection (a).

Sec. 8801.064. DEPOSITORY. (a) Requires the HG board to name one or more banks to serve as depository for the HG district money.

(b) Requires district money to be deposited as received with the depository bank and to remain on deposit. Provides that this subsection does not limit the power of the HG board to place a portion of the HG district's money on time deposit or to purchase certificates of deposit or other authorized investments.

(c) Sets forth the manner in which the money is required to be secured, to the extent that the money is not insured by the Federal Deposit Insurance Corporation.

Sec. 8801.065. INVESTMENTS. (a) Authorizes the money of the HG district to be invested and reinvested in a certain manner.

(b) Authorizes the HG board, by resolution, to permit an authorized representative of the HG district to invest and reinvest the money of the HG district and provide for money to be withdrawn from the appropriate HG district accounts for investments on terms that the HG board considers advisable.

SECTION 7. Amends Sections 8801.101, 8801.102, 8801.105, and 8801.106, Special District Local Laws Code, as follows:

Sec. 8801.101. DISTRICT POWERS AND DUTIES. Provides that, except as provided by Section 8801.103, the HG district has all of the rights, powers, privileges, and authority necessary and convenient to the exercise of its jurisdiction and powers provided by this chapter, whether such jurisdiction and powers are specifically authorized by this chapter or implied from this chapter or other law. Deletes the provision that, subject to certain exceptions, the HG district has all of the rights, powers, privileges, authority, functions, and duties, as provided by certain laws. Deletes the provision that this chapter prevails over any other law in conflict or inconsistent with this chapter.

Sec. 8801.102. New heading: NONAPPLICABILITY OF OTHER LAW. (a) Provides that other laws governing the administration or operation of certain conservation and reclamation districts do not apply to the HG district.

(b) Provides that this chapter prevails over any other law in conflict or inconsistent with this chapter. Deletes the provision that certain sections of the Water Code do not apply to the HG district.

Sec. 8801.105. New heading: SUITS BY OR AGAINST THE DISTRICT; REPRESENTATION BY ATTORNEY GENERAL. (a) Authorizes the HG district to sue and be sued in the courts of this state in the name of the HG district by and through the HG board.

(b) Requires the attorney general to defend the HG district only at the request of the HG district in suits brought against the HG district. Creates this subsection from existing text.

(c) Authorizes the HG district to engage outside attorneys to initiate or defend suits on behalf of the HG district.

(d) Provides that the general manager of the HG board is the agent of the HG district on whom process, notice, or demand required or permitted by law to be served on the HG district may be served.

(e) Provides that the HG district is not required to give bond for appeal, injunction, or costs in any suit to which it is a party.

(f) Authorizes the HG district, if the HG district prevails in any suit other than a suit in which it voluntarily intervenes, to seek, and requires the court to grant, in the same action, recovery for attorney's fees, costs for expert witnesses, and other

costs incurred by the HG district before the court. Requires the court to set the amount of the attorney's fees.

Sec. 8801.106. GRANTS; CONTRACTS. (a) Creates this subsection from existing text.

(b) Authorizes the HG district to enter into contracts only in its own name.

(c) Authorizes the HG district to purchase property from another governmental entity by negotiated contract without the necessity of securing appraisals or advertising for bids.

(d) Authorizes the HG district to use a certain reverse auction procedure for purchasing.

SECTION 8. Amends Section 8801.108(a), Special District Local Laws Code, to authorize the HG board to adopt rules intended to prevent the waste of groundwater or the degradation of water quality.

SECTION 9. Amends Section 8801.110(c), Special District Local Laws Code, to create an exception, for hearings on permit applications, to the rule that written notice of a hearing must be given to certain persons and entities.

SECTION 10. Amends Section 8801.114, Special District Local Laws Code, as follows:

Sec. 8801.114. DISTRICT RESEARCH. (a) Authorizes the HG district to use the services of licensed professional geoscientists and licensed professional engineers, rather than licensed engineers, in addition to the services of other persons. Creates this subsection from existing text.

(b) Authorizes the HG district to collect any information the HG board determines is necessary to implement this chapter.

SECTION 11. Amends Section 8801.117, Special District Local Laws Code, by adding Subsection (e) to require the HG board to submit a report (on the HG board's findings regarding groundwater withdrawal) and a copy of the most recent district plan adopted under Section 8801.112 to the appropriate regional water planning group.

SECTION 12. Amends Section 8801.118, Special District Local Laws Code, as follows:

Sec. 8801.118. MONITORING AND SUPERVISION BY THE DISTRICT. Authorizes the HG district to use global positioning systems and other geodetic survey methods to monitor land surface elevations and measure subsidence. Authorizes the HG district to coordinate monitoring and data collection activities with other entities, including private entities and federal, state, or local governmental entities. Creates a subsection from existing text.

SECTION 13. Amends Section 8801.119, Special District Local Laws Code, by adding Subsection (c) to authorize the HG district to adopt different rules for each aquifer, subdivision of an aquifer, or geologic stratum located wholly or partly within the boundaries of the HG district, or each geographic area overlying an aquifer or subdivision of an aquifer located wholly or partly within the boundaries of the HG district.

SECTION 14. Amends Subchapter C, Chapter 8801, Special District Local Laws Code, by amending Section 8801.120 and adding Sections 8801.121-8801.123, as follows:

Sec. 8801.120. WATER-METERING DEVICES. Authorizes the HG board to adopt standards for the accuracy, testing, and calibration for water-metering devices to be placed on wells in the HG district.

Sec. 8801.121. REQUIRED WRITTEN POLICIES. Requires the HG board to adopt in writing a code of ethics for district personnel and certain other policies.

Sec. 8801.122. RECORDS. Requires the HG board to maintain a complete account of all meetings and proceedings and to preserve its minutes, contracts, records, notices, accounts, receipts, and other records in a safe place.

Sec. 8801.123. OPEN OR UNCOVERED WELLS. (a) Authorizes the HG district to require the owner or lessee of land on which an open or uncovered well is located to keep the well closed or capped with a certain type of covering when the well is not in actual use.

(b) Authorizes certain persons or entities affiliated with the HG district to enter onto the land to close or cap the well safely and securely if the well owner or lessee fails or refuses to close or cap the well.

SECTION 15. Amends Sections 8801.151, 8801.152, and 8801.155, Special District Local Laws Code, as follows:

Sec. 8801.151. GROUNDWATER WITHDRAWALS SUBJECT TO BOARD RULE. Includes withdrawals of injected water in the groundwater withdrawals governed by this chapter that are subject to reasonable HG board rules and orders, taking into account certain factors including the availability of alternative water supplies.

Sec. 8801.152. CERTAIN WELLS EXEMPT. Exempts certain wells that serve only a single-family dwelling, rather than those which serve a single-family dwelling, from the regulatory provisions of this chapter.

Sec. 8801.155. PERMIT REQUIRED. (a) Creates this subsection from existing text.

(b) Requires a well to have a valid permit if it is operational.

(c) Provides that an owner or operator commits a violation if the owner or operator does not obtain a permit as required by Subsection (a). Provides that a violation occurs on the first day the drilling, alteration, or operation begins. Provides that each day a violation continues is a separate violation.

SECTION 16. Amends Section 8801.157(b), Special District Local Laws Code, to require the HG board to give written notice of the date, time, and location of the hearing to the applicant by regular mail or by certified mail, return receipt requested, rather than only by certified mail.

SECTION 17. Amends Section 8801.158, Special District Local Laws Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Requires the HG board to consider, in deciding whether to issue a permit and in setting the terms of the permit to consider the quality, quantity, and availability of alternative water supplies and the applicant's compliance with the requirements of this chapter or any rule, permit, or other order of the HG district.

(e) Authorizes the HG board to condition issuance of a permit under this section on the resolution of a prior or continuing violation of this chapter or any rule, permit, or order of the HG district. Authorizes the HG board to require an applicant to pay a civil penalty or settlement amount, or take other necessary action, to resolve a prior or continuing violation.

SECTION 18. Amends Section 8801.161, Special District Local Laws Code, as follows:

Sec. 8801.161. PERMIT FEES. (a) Requires the fee to be determined based on the maximum amount of groundwater that the HG board authorizes to be withdrawn from the well, rather than the maximum annual amount. Creates this subsection from existing text.

(a-1) Authorizes the HG board, in addition to the regular permit fee under Subsection (a), to establish a disincentive permit fee to serve as a regulatory tool by creating a disincentive to continued over-reliance on groundwater.

(b) Makes conforming changes.

(b-1) Prohibits the fee under Subsection (a) from exceeding a certain amount.

(c) Prohibits the amount of a permit fee applicable to a well used for irrigating agricultural crops from exceeding a certain amount. Deletes the requirement that the amount of the permit fee be the lowest of several figures calculated by various methods.

(d) Authorizes the HG district to establish a fee for administrative acts of the HG district, including receiving applications for permits or permit amendments. Deletes existing text of this subsection.

(e) Authorizes the HG board to use permit fees collected under this section to make grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies.

SECTION 19. Amends the heading to Section 8801.163, Special District Local Laws Code, as follows:

Sec. 8801.163. CONVERSION TO ALTERNATIVE WATER SUPPLY.

SECTION 20. Amends Sections 8801.163(b) and (c), Special District Local Laws Code, as follows:

(b) Authorizes the HG board to issue an order requiring a person to completely or partially discontinue the use of groundwater only if the person is able to acquire an alternative water supply, rather than a supply composed of surface water, needed to replace the water supply covered by the order or to participate in a groundwater reduction plan or other agreement approved by the HG board that complies with the HG district's regulatory requirements.

(c) Makes a conforming change.

SECTION 21. Amends Section 8801.202, Special District Local Laws Code, by amending Subsections (a) and (c), and adding Subsection (d), as follows:

(a) Authorizes a suit by a person adversely affected by a rule, order, or other official action of the HG district to sue in district court, only after any administrative appeal to the district is finally resolved. Makes a conforming change.

(c) Provides that the burden of proof is on the petitioner and that the challenged rule, order, or other official action of the HG district is deemed prima facie valid.

(d) Requires the district court to set for trial as expeditiously as possible an appeal brought under this section. Prohibits the court from postponing or continuing the suit unless the reasons for postponement or continuance are imperative.

SECTION 22. Amends Section 8801.204, Special District Local Laws Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Makes a nonsubstantive change.

(e) Requires the court, in a suit to recover a civil penalty or a suit for injunctive relief and a civil penalty, if the court finds that a person has violated or is violating a provisions of

this chapter or a rule, permit, or order of the HG district, to assess a civil penalty in the amount provided by this section.

SECTION 23. Amends Section 1(a), Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, to make a nonsubstantive change.

SECTION 24. Amends Section 2, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by amending Subdivision (9) and adding Subdivisions (10)-(15), to redefine "commission" and define "agricultural crop," "beneficial use," "florist item," "nursery grower," "nursery product," and "waste."

SECTION 25. Amends Sections 3 and 4, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, as follows:

Sec. 3. New heading: CREATION; FINDING OF BENEFIT AND PUBLIC PURPOSE. Provides that the Fort Bend Subsidence District (FB district) is created to serve a public use and benefit. Makes nonsubstantive changes.

Sec. 4. BOUNDARIES. Deletes provisions relating to adding adjoining counties to the FB district.

SECTION 26. Amends Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by adding Section 4A, as follows:

Sec. 4A. NONAPPLICABILITY OF OTHER LAW. (a) Provides that other laws governing the administration or operation of conservation and reclamation districts do not apply to the FB district.

(b) Provides that notwithstanding Section 36.052 (Other Laws Not Applicable), Water Code, this chapter prevails over any other law in conflict or inconsistent with this Act.

SECTION 27. Amends Sections 5(h), (l), (n), (o), (p), and (r), Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, as follows:

(h) Requires selection of subsequent directors of the FB district board of directors (FB board) to be made each January, rather than on the second Monday in January at 11 am in the district's main office. Deletes existing text requiring notice to be sent to persons described in Subsection (e). Makes conforming changes.

(l) Makes a conforming change.

(n) Authorizes an increase in fees of office for the directors of the board, and sets a cap on the fees of office per year. Requires a director to file certain statements with the FB district in order to receive fees of office and reimbursement. Deletes the provision that a member of the board may not receive reimbursement for more than 120 days in a calendar year. Makes nonsubstantive changes.

(o) Makes a conforming change.

(p) Requires each director to make the sworn statement and take the oath of office prescribed by the constitution for public officers, rather than to take the oath of office prescribed by law for county commissioners. Makes a nonsubstantive change.

(r) Provides that a meeting of the committee of the FB board where less than a quorum is present is not subject to the provisions of Chapter 551, Government Code. Requires the FB board to give notice of a meeting in a certain manner. Provides that failure to give notice or an insubstantial defect in notice does not affect the validity of any action taken at the meeting.

SECTION 28. Amends Section 6, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by amending Subsections (b)-(d) and adding Subsections (e)-(g), as follows:

(b) Includes withdrawals of injected water in the withdrawals of groundwater covered by this Act.

(c) Requires the FB board to consider, in adopting rules, regulations, and orders, the availability of alternative water supplies, among other factors.

(d) Provides that the FB board has all other powers necessary and convenient to carry out its responsibilities and achieve the purposes of this Act, whether the powers are specifically authorized by this Act or implied by this Act or another law.

(e) Authorizes the FB board to adopt bylaws and policies as necessary to accomplish its purposes.

(f) Authorizes the FB board to purchase materials, supplies, equipment, vehicles, and machinery needed by the FB district to perform its purposes.

(g) Requires the FB board to adopt certain written policies.

SECTION 29. Amends Section 7, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by adding Subsection (e) to require the FB board to determine the compensation and terms of office and employment for the general manager. Authorizes the FB board to discharge the general manager by a vote of a majority of the FB board members.

SECTION 30. Amends the heading to Section 8, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, to read as follows:

Sec. 8. EMPLOYEES; BENEFITS.

SECTION 31. Amends Section 8, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by amending Subsections (a) and (b) and adding Subsections (d)-(g), as follows:

(a) Requires the general manager of the FB board (general manager), rather than the FB board, to employ personnel. Makes a conforming change.

(b) Deletes the provision that the board determines the term of office of the general manager and may discharge the general manager on majority vote. Makes a conforming change.

(d) Authorizes the FB board to provide for and administer retirement, disability, and death compensation funds for the employees of the FB district.

(e) Authorizes the FB board to establish a public retirement system and provide for a deferred compensation plan.

(f) Authorizes the FB board to include hospitalization and medical benefits as part of the compensation paid employees. Authorizes the FB board to adopt or amend any plan or rule as necessary to provide hospitalization and medical benefits.

(g) Authorizes the FB board to establish a sick leave pool for employees in a certain manner.

SECTION 32. Amends Sections 10 and 11, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, as follows:

Section 10. MINUTES AND RECORDS OF DISTRICT. Requires certain documents of the district to be kept in a safe place, rather than in a fireproof vault or safe.

Section 11. SUITS. (a) Creates this subsection from existing text.

(b) Provides that the general manager is the agent of the FB district on whom process, notice, or demand required or permitted by law to be served on the FB district may be served.

(c) Provides that the FB district is not required to give bond for appeal, injunction, or costs in any suit to which it is a party.

(d) Authorizes the FB district, if it prevails in any suit other than a suit in which it voluntarily intervenes, to seek, and requires the court to grant, recover [sic] for attorney's fees, costs for expert witnesses, and other costs incurred by the FB district before the court. Requires the court to set the amount of the attorney's fees. Deletes existing text requiring all courts to take judicial notice of the creation of the FB district and of its boundaries.

SECTION 33. Amends Section 13(a), Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, to authorize the FB board to adopt rules intended to prevent the waste of groundwater or the degradation of water quality. Deletes a reference to a hearing under Section 14 of this Act.

SECTION 34. Amends Sections 14(b)-(d) and (h), Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, as follows:

(b) Creates an exception for hearings on permit applications, to the rule that the FB district must deliver or mail notice of the hearing to certain persons.

(c) Requires the FB board to mail notice to certain persons not later than the 10th, rather than 20th, day before a hearing.

(d) Requires the FB district to post notice in certain county courthouses not later than the 10th, rather than the 20th, day before a hearing.

(h) Authorizes the FB board to use hearing examiners to hear any subject set for the hearing, but requires the FB board to make any final decision on the subject. Requires procedures for the use of hearing examiners to be provided by rule rather than in the rules and regulations.

SECTION 35. Amends Sections 16(a) and (c)-(f), Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, as follows:

(a) Deletes the provision that the FB board formulate a plan to control and mitigate subsidence in the district specifically under Section 14 of this Act.

(c) Modifies the factors the FB board must consider in formulating the plan.

(d) Requires the initial plan, rather than simply the plan, to be formulated not later than 12 months after the effective date of this Act.

(e) Makes a conforming change.

(f) Makes a nonsubstantive change.

SECTION 36. Amends Section 17, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, as follows:

Sec. 17. New heading: WELL REGISTRATION. Authorizes the FB board, by rule, to require the registration of any well in the district. Deletes the requirement that the FB board adopt temporary rules and regulations during the period that the FB board is formulating and adopting the plan under Section 16.

SECTION 37. Amends Sections 18(a), (b), and (d), Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989,as follows:

(a) Requires the owner of a well located in the FB district to obtain a permit from the FB board before drilling, equipping, or completing the well, substantially altering the size of the well or a well pump, or operating the well, rather than to obtain a permit to withdraw groundwater.

(b) Requires a well to have a valid permit if it is operational. Provides that an owner or operator commits a violation if the owner or operator does not obtain a permit as required by Subsection (a). Provides that each day a violation continues is a separate violation. Deletes the provision relating to current owners of wells applying for permits.

(d) Provides that a permit is not a vested right of the permit holder. Authorizes a permit to be revoked, suspended, modified, or amended after notice and a hearing, rather than after notice and public hearing under Section 14.

SECTION 38. Amends Section 19(b), Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989,to require the FB board to notify the applicant of the hearing not later than the 10th, rather than 20th, day before the hearing. Requires the FB board to notify the applicant by regular mail or certified mail, return receipt requested, rather than by certified mail only.

SECTION 39. Amends Section 20, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by amending Subsections (a)-(c) and (e) and adding Subsection (f), as follows:

(a) Requires the FB board to decide whether to issue a permit not later than the 60th, rather than 35th, day after the date of the hearing.

(b) Requires the FB board, in deciding whether to issue a permit and in setting the terms of the permit, to consider the quality, quantity, and availability of alternative water supplies and the applicant's compliance with the requirements of this chapter or any rule, permit, or other order of the district, and any other relevant factors.

(c) Makes a nonsubstantive change

(e) Deletes the requirement that the permit include adoption of water conservation measures for the purpose of preventing waste of groundwater, including educational programs.

(f) Authorizes the FB board to condition the issuance of a permit on the resolution of a prior or continuing violation of this chapter, or any rule, permit or order of the FB district. Authorizes the FB board to require an applicant to pay a civil penalty or settlement amount, or take other necessary action, to resolve a prior or continuing violation.

SECTION 40. Amends Section 22, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, to delete the requirement that the owner of a well, in the annual report to the FB board, include the date the permit expires.

SECTION 41. Amends Section 24, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Deletes the provision that the annual hearing to determine the effects during the preceding year or groundwater withdrawal be conducted under Section 14.

(b) Makes a nonsubstantive change.

(d) Requires the FB board to submit the report adopted under Subsection (c) (regarding groundwater withdrawal) and a copy of the most recent district plan adopted under Section 16 to the appropriate regional water planning group.

SECTION 42. Amends Section 25, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, as follows:

Sec. 25. REGULATION OF SPACING AND PRODUCTION. (a) Makes a nonsubstantive change.

(b) Deletes the requirement that the FB district give notice of a hearing regarding a proposed rule, regulation, or order, and the notice and hearing be conducted as provided in Section 14.

(c) Authorizes the FB district to adopt different rules for each aquifer, subdivision of an aquifer, or geologic stratum located wholly or partly within the boundaries of the FB district, or each geographic area overlying an aquifer or subdivision of an aquifer located wholly or partly within the boundaries of the FB district.

(d) Authorizes the FB board to issue an order requiring a person to completely or partially discontinue the use of groundwater by acquiring an alternative water supply or participating in a groundwater reduction plan or other agreement.

(e) Authorizes the FB board to issue an order or adopt a rule requiring a person to reduce groundwater use by eliminating waste or implementing water conservation measures.

SECTION 43. Amends Sections 26, 28, 29, and 31, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, as follows:

Sec. 26. REQUIRING WATER-METERING DEVICES. Authorizes the FB board to require, rather than adopt orders after notice and hearing under Section 14 requiring, water-metering devices to be placed in wells in the district. Authorizes the FB board to adopt standards for meter accuracy, testing, and calibration.

Sec. 28. MONITORING AND SUPERVISIONS OF DISTRICT. Authorizes the FB district to use global positioning systems and other geodetic survey methods to monitor land surface elevations and measure subsidence. Authorizes the FB district to coordinate monitoring and data collection activities with certain other entities. Creates a subsection from existing text.

Sec. 29. RESEARCH AND STUDIES. Authorizes the FB board to use the services of licensed professional engineers, rather than registered professional engineers, and licensed professional geoscientists, among other professionals. Authorizes the FB district to collect any information the FB board determines is necessary to implement this chapter, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir. Creates a subsection from existing text.

Section 31. CONTRACTS. Authorizes the FB district to enter into contracts only in the FB district's name.

SECTION 44. Amends Section 32, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by amending Subsections (a), (b), and (d), and adding Subsection (e), as follows:

(a) Provides that an appeal may only be filed by a person adversely affected by a rule, regulation, order, or other official action of the FB board after any administrative appeal to the FB district is finally resolved.

(b) Requires an appeal under this section to be filed not later than the 45th day after the date any administrative appeal is finally resolved, rather than 45th day after the date the rule, regulation, order, or other official action appealed from is promulgated.

(d) Defines the substantial evidence rule as provided by Subchapter G (Contested Cases: Judicial Review), Chapter 2001, Government Code. Provides that the burden of

proof is on the petitioner, and the challenged rule, order, or other official action of the FB district is considered prima facie valid.

(e) Requires the district court to set for trial as expeditiously as possible an appeal brought under this section. Prohibits the court from postponing or continuing the suit unless the reasons for postponement or continuance are imperative.

SECTION 45. Amends Sections 34-37, 39, and 40, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, as follows:

Sec. 34. PERMIT FEE. (a) Authorizes the FB board to establish a disincentive permit fee to serve as a regulatory tool by creating a disincentive to continued over-reliance on groundwater.

(b) Deletes the reference to a hearing under Section 14 of this Act.

(c) Authorizes the FB board to use the funds obtained from permit fees to cover the costs of issuing permits and performing other regulatory functions, rather than other functions, of this act. Sets forth functions included in the regulatory functions.

Sec. 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. Authorizes the FB district to make or accept certain funds and enter into a contract, agreement, or covenant that the FB board considers appropriate in connection with those funds. Creates a subsection from existing text.

Sec. 36. New heading: WATER CONSERVATION MEASURES. (a) Authorizes the FB board to adopt rules requiring the use of water conservation measures to reduce groundwater withdrawals.

(b) Authorizes the FB district to cooperate with the Texas Commission on Environmental Quality (commission) and a local government to establish water conservation goals, guidelines, and plans to be used in the FB district.

(c) Authorizes the FB district to contract with a local government in the FB district to provide services needed to meet water conservation requirements established by the commission. Deletes the provisions relating to ownership of groundwater.

Sec. 37. New heading: OPEN OR UNCOVERED WELLS. (a) Authorizes the FB district to require the owner or lessee of land on which an open or uncovered well is located to keep the well closed or capped with a certain type of covering when the well is not in actual use.

(b) Authorizes certain persons or entities affiliated with the HG district to enter onto the land to close or cap the well safely and securely if the well owner or lessee fails or refuses to close or cap the well. Deletes the provision relating to the inapplicability of laws relating to the use of surface water to groundwater.

Sec. 39. EXCLUSIONS. Deletes the provision that this Act does not apply to persons owning only one well within the district if the well has a casing with an inside diameter of five inches or less. Provides that this Act does not apply to wells with a casing that has an inside diameter of five inches or less that serve only a single-family dwelling. Deletes the requirement that the well must have a negligible effect on subsidence within the district and that the Act does not apply to this well only on application for an exemption on a form prescribed by the FB board.

Sec. 40. DISBURSEMENT OF FUNDS. Authorizes the FB district's money to be disbursed by electronic fund transfer.

SECTION 46. Amends the heading to Section 41, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, to read as follows:

Sec. 41. ACCOUNTS AND INDEPENDENT AUDIT; BUDGET.

SECTION 47. Amends Section 41, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Deletes the requirement that the FB board deliver a copy of the audit to the commissioners court of each county in the FB district.

(c) Provides that the fiscal year of the FB district is the calendar year.

(d) Requires the FB board to adopt an annual budget containing a complete financial statement. Authorizes the FB board to amend the annual budget.

SECTION 48. Amends the heading to Section 42, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, to read as follows:

Sec. 42. DEPOSITORY BANKS; INVESTMENTS.

SECTION 49. Amends Section 42, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by amending Subsections (a), (c), and (d), and adding Subsections (h) and (i), as follows:

(a) Deletes an exception, as provided by Subsection (b), to the rule that all money, rather than funds, of the FB district shall be deposited in a depository bank. Provides that this subsection does not limit the power of the FB board to place a portion of the FB district's money on time deposit or to purchase certificates of deposit or other authorized investments. Makes conforming changes.

(c) Requires the money to be secured in a certain manner, as provided by Chapter 2257, Government Code, rather than the law for security of county funds, to the extent that it is not invested or insured by the Federal Deposit Insurance Corporation. Makes conforming changes.

(d) Deletes the requirement that the FB board publish notice once in a newspaper of general circulation in the FB district or mail a copy of the notice to each bank in the FB district before designating a depository bank.

(h) Authorizes money of the FB district to be invested and reinvested in a certain manner.

(i) Authorizes the FB board, by resolution to provide that an authorized representative of the FB district may invest and reinvest the money of the district and provide for money to be withdrawn from the appropriate accounts of the FB district for certain investments.

SECTION 50. Amends Section 43, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, by amending Subsections (b) and (c) and adding Subsection (e), as follows:

(b) Requires the attorney general to institute the action for a violation at the request of the FB board, rather than the FB district.

(c) Provides that the FB district, rather than the FB board, is not required to post bond or other security with the court.

(e) Requires the court, in a suit to recover a civil penalty or a suit for injunctive relief and a civil penalty, if the court finds that a person has violated or is violating a provisions of this chapter or a rule, permit, or order of the FB district, to assess a civil penalty in the amount provided by this section.

SECTION 51. Repealer: Sections 8801.006 (Addition of Adjacent County to District), 8801.153 (Restriction on Requirements for Certain Municipalities), 8801.163(d) (Conversion to Alternative Water Supply), 8801.164 (Monitoring of Alternative Water Supply), and 8801.203 (Alternative Appeal of Certain District Actions to Commission), Special District Local Laws Code, and Sections 5(e), (g), and (k) (Board of Directors), 19(c) (Notice and Hearing on Permit), 33 (Appeal of Certain District Actions to the Commission), 42(b) (Depository Banks; Investments), 44 (Legislative Finding of Authority), and 45 (Emergency), Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989.

SECTION 52. Effective date: upon passage or September 1, 2005.