

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8819 to read as follows:

CHAPTER 8819. PANOLA COUNTY
GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8819.001. DEFINITIONS. In this chapter:

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

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

(3) "District" means the Panola County Groundwater Conservation District.

Sec. 8819.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Panola County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8819.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held on or before December 31, 2008, the district is dissolved on that date, except that:

(1) any debts incurred shall be paid;

(2) any assets that remain after the payment of debts shall be transferred to Panola County; and

(3) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred.

Sec. 8819.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Panola County, Texas.

SENATE VERSION

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8819 to read as follows:

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GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

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Sec. 8819.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Panola County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8819.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held on or before December 31, 2008, the district is dissolved on that date, except that:

(1) any debts incurred shall be paid;

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(3) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred.

Sec. 8819.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Panola County, Texas.

CONFERENCE

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Sec. 8819.005. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.
[Sections 8819.006-8819.020 reserved for expansion]
SUBCHAPTER A-1. TEMPORARY PROVISIONS
Sec. 8819.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of this chapter, nine temporary directors shall be appointed as follows:
(1) the Panola County Commissioners Court shall appoint eight temporary directors, with two of the temporary directors appointed from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and
(2) the county judge of Panola County shall appoint one temporary director who resides in the district to represent the district at large.
(b) Of the temporary directors, at least one director must represent rural water suppliers in the district, one must represent agricultural interests in the district, and one must represent industrial interests in the district.
(c) If there is a vacancy on the temporary board of directors of the district, the Panola County Commissioners Court shall appoint 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 election of initial directors under Section 8819.023; or

SENATE VERSION

Sec. 8819.005. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.
[Sections 8819.006-8819.020 reserved for expansion]
SUBCHAPTER A-1. TEMPORARY PROVISIONS
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(1) the Panola County Commissioners Court shall appoint eight temporary directors, with two of the temporary directors appointed from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and
(2) the county judge of Panola County shall appoint one temporary director who resides in the district to represent the district at large.
(b) Of the temporary directors, at least one director must represent rural water suppliers in the district, one must represent agricultural interests in the district, and one must represent industrial interests in the district.
(c) If there is a vacancy on the temporary board of directors of the district, the Panola County Commissioners Court shall appoint 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 election of initial directors under Section 8819.023; or

CONFERENCE

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(2) the date this subchapter expires under Section 8819.026.

Sec. 8819.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. 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 Panola County Courthouse.

Sec. 8819.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect the initial directors of the district.

(b) The temporary directors shall have placed on the ballot the names of all candidates for an initial director's position who have filed an application for a place on the ballot as provided by Section 52.003, Election Code.

(c) The ballot must be printed to provide for voting for or against the proposition: "The creation of the Panola County Groundwater Conservation District."

(d) If the district levies a maintenance tax for payment of expenses, the ballot must be printed to provide for voting for or against the proposition: "The levy of a maintenance tax at a rate not to exceed _____ cents for each \$100 of assessed valuation."

(e) Section 41.001(a), Election Code, does not apply to an election held under this section.

(f) Except as provided by this section, an election under

SENATE VERSION

(2) the date this subchapter expires under Section 8819.026.

Sec. 8819.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. 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 Panola County Courthouse.

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(b) The temporary directors shall have placed on the ballot the names of all candidates for an initial director's position who have filed an application for a place on the ballot as provided by Section 52.003, Election Code.

(c) The ballot must be printed to provide for voting for or against the proposition: "The creation of the Panola County Groundwater Conservation District."

(d) If the district levies a maintenance tax for payment of expenses, the ballot must be printed to provide for voting for or against the proposition: "The levy of a maintenance tax at a rate not to exceed _____ cents for each \$100 of assessed valuation."

(e) Section 41.001(a), Election Code, does not apply to an election held under this section.

(f) Except as provided by this section, an election under

CONFERENCE

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

this section must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code. The provision of Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to an election under this section.

Sec. 8819.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8819.023, the initial directors of the district serve on the board of directors until permanent directors are elected under Section 8819.025 or 8819.053.

(b) The two initial directors representing each of the four commissioners precincts shall draw lots to determine which of the two directors shall serve a term expiring June 1 following the first regularly scheduled election of directors under Section 8819.025, and which of the two directors shall serve a term expiring June 1 following the second regularly scheduled election of directors. The at-large director shall serve a term expiring June 1 following the second regularly scheduled election of directors.

Sec. 8819.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of four directors to replace the initial directors who, under Section 8819.024(b), serve a term expiring June 1 following that election.

Sec. 8819.026. EXPIRATION OF SUBCHAPTER.

SENATE VERSION

this section must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code. The provision of Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to an election under this section.

Sec. 8819.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8819.023, the initial directors of the district serve on the board of directors until permanent directors are elected under Section 8819.025 or 8819.053.

(b) The two initial directors representing each of the four commissioners precincts shall draw lots to determine which of the two directors shall serve a term expiring June 1 following the first regularly scheduled election of directors under Section 8819.025, and which of the two directors shall serve a term expiring June 1 following the second regularly scheduled election of directors. The at-large director shall serve a term expiring June 1 following the second regularly scheduled election of directors.

Sec. 8819.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of four directors to replace the initial directors who, under Section 8819.024(b), serve a term expiring June 1 following that election.

Sec. 8819.026. EXPIRATION OF SUBCHAPTER.

CONFERENCE

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

This subchapter expires September 1, 2012.

[Sections 8819.027-8819.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8819.051. DIRECTORS; TERMS. (a) The district is governed by a board of nine directors.

(b) Directors serve staggered four-year terms, with four or five directors' terms expiring June 1 of each even-numbered year.

(c) A director may serve consecutive terms.

Sec. 8819.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the voters of the entire district, and two directors shall be elected from each county commissioners precinct by the voters of that precinct.

(c) Except as provided by Subsection (e), to be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

- (1) the precinct that the person seeks to represent; or
- (2) that the person seeks to represent the district at large.

(e) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census

SENATE VERSION

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(c) Except as provided by Subsection (e), to be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

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- (1) the precinct that the person seeks to represent; or
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CONFERENCE

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

Sec. 8819.053. ELECTION DATE. The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in May of each even-numbered year.

Sec. 8819.054. COMPENSATION. (a) Sections 36.060(a), (b), and (d), Water Code, do not apply to the district.

(b) A director is entitled to receive compensation of not more than \$50 a day for each day the director actually spends performing the duties of a director. The compensation may not exceed \$3,000 a year.

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

Sec. 8819.055. BOARD ACTION. A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

[Sections 8819.056-8819.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8819.101. GENERAL POWERS. Except as

SENATE VERSION

to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

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[Sections 8819.056-8819.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8819.101. GENERAL POWERS. Except as

CONFERENCE

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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.

Sec. 8819.102. GROUNDWATER WELLS UNDER RAILROAD COMMISSION JURISDICTION. (a) Except as provided by this section, a groundwater well drilled or operated within the district under a permit issued by the Railroad Commission of Texas is under the jurisdiction of the railroad commission, and, in respect to such a well, the district has only the authority provided by Chapter 36, Water Code.

(b) Groundwater produced in an amount authorized by a railroad commission permit may be used within or exported from the district without a permit from the district.

(c) To the extent groundwater is produced in excess of railroad commission authorization, the holder of the railroad commission permit:

(1) shall apply to the district for the appropriate permit for the excess production; and

(2) is subject to the applicable regulatory fees.

Sec. 8819.103. 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. 8819.104. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWERS. The district may not

SENATE VERSION

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CONFERENCE

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

exercise the power of eminent domain.
Sec. 8819.105. REGIONAL COOPERATION. (a) In this section, "designated groundwater management area" means an area designated as a groundwater management area under Section 35.004, Water Code.
(b) To provide for regional continuity, the district shall comply with the requirements of Section 36.108, Water Code, and:
(1) participate as needed in coordination meetings with other groundwater conservation districts in its designated groundwater management area;
(2) coordinate the collection of data with other groundwater conservation districts in its designated groundwater management area in such a way as to achieve relative uniformity of data type and quality;
(3) coordinate efforts to monitor water quality with other groundwater conservation districts in its designated groundwater management area, local governments, and state agencies;
(4) provide groundwater level data to other groundwater conservation districts in its designated groundwater management area;
(5) investigate any groundwater or aquifer pollution with the intention of locating its source;
(6) notify other groundwater conservation districts in its designated groundwater management area and all appropriate agencies of any groundwater pollution detected;
(7) annually provide to other groundwater conservation districts in its designated groundwater management area

SENATE VERSION

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(3) coordinate efforts to monitor water quality with other groundwater conservation districts in its designated groundwater management area, local governments, and state agencies;
(4) provide groundwater level data to other groundwater conservation districts in its designated groundwater management area;
(5) investigate any groundwater or aquifer pollution with the intention of locating its source;
(6) notify other groundwater conservation districts in its designated groundwater management area and all appropriate agencies of any groundwater pollution detected;
(7) annually provide to other groundwater conservation districts in its designated groundwater management area

CONFERENCE

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

an inventory of water wells and an estimate of groundwater production in the district; and (8) include other groundwater conservation districts in its designated groundwater management area on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

SENATE VERSION

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CONFERENCE

Sec. 8819.106. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS.

The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, if the well is not exempt under Section 36.117(b)(1), Water Code, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8819.107. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section, the district may require any well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8819.108. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT.

(a) On September 1, 2011, the district boundaries must include at least one county adjacent to Panola County.

(b) As soon as practicable after September 1, 2011, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the commission determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2013.

[Sections 8819.106-8819.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8819.151. LIMITATION ON TAXES. The district may not impose ad valorem taxes at a rate that exceeds 1.5 cents on each \$100 valuation of taxable property in the district.

Sec. 8819.152. FEES. (a) The board by rule may impose reasonable fees on each well:

- (1) for which a permit is issued by the district; and
- (2) that is not exempt from district regulation.

[Sections 8819.109-8819.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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- (1) for which a permit is issued by the district; and
- (2) that is not exempt from district regulation.

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(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) The board shall base the initial production fee on the criteria listed in Subsection (b)(2). The initial production fee:
(1) may not exceed:
(A) 25 cents per acre-foot for water used for agricultural irrigation; or
(B) 6.75 cents per thousand gallons for water used for any other purpose; and
(2) may be increased at a cumulative rate not to exceed three percent per year.
(d) In addition to the production fee authorized under this section, the district may assess an export fee on groundwater from a well that is produced for transport outside the district.
(e) Fees authorized by this section may be:
(1) assessed annually;
(2) used to pay the cost of district operations; and
(3) used for any other purpose allowed under Chapter 36, Water Code.
Sec. 8819.153. LIMITATION ON INDEBTEDNESS.
The district may issue bonds and notes under Subchapter F, Chapter 36, Water Code, except that the total indebtedness created by that issuance may not exceed \$500,000 at any time.

SENATE VERSION

(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) The board shall base the initial production fee on the criteria listed in Subsection (b)(2). The initial production fee:
(1) may not exceed:
(A) 25 cents per acre-foot for water used for agricultural irrigation; or
(B) 6.75 cents per thousand gallons for water used for any other purpose; and
(2) may be increased at a cumulative rate not to exceed three percent per year.
(d) In addition to the production fee authorized under this section, the district may assess an export fee on groundwater from a well that is produced for transport outside the district.
(e) Fees authorized by this section may be:
(1) assessed annually;
(2) used to pay the cost of district operations; and
(3) used for any other purpose allowed under Chapter 36, Water Code.
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CONFERENCE

House Bill 1498
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 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, lieutenant governor, and 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 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, 2007.

SENATE VERSION

Same as House version.

Same as House version.

CONFERENCE