

1-1 By: Calligari (Senate Sponsor - Averitt) H.B. No. 3335
1-2 (In the Senate - Received from the House May 18, 2009;
1-3 May 19, 2009, read first time and referred to Committee on Natural
1-4 Resources; May 23, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 23, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3335 By: Averitt

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation and powers of certain groundwater and
1-11 surface water districts.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 ARTICLE 1. GENERAL LAW PROVISIONS

1-14 SECTION 1.01. Section 35.012, Water Code, is amended by
1-15 amending Subsections (b) and (c) and adding Subsections (d) through
1-16 (f) to read as follows:

1-17 (b) Except as provided under Section 35.013, within
1-18 ~~[within]~~ two years, but no sooner than 120 days, from the date on
1-19 which the commission issues an order under Section 35.008
1-20 designating a priority groundwater management area, for those areas
1-21 that are not within a district, the commission shall~~[-~~

1-22 ~~[(1)]~~ create one or more new districts under Section
1-23 36.0151~~[-~~

1-24 ~~[(2) recommend that the areas, or a portion of the~~
1-25 ~~areas, be added to an existing district under Section 35.013; or~~

1-26 ~~[(3) take any combination of the actions under~~
1-27 ~~Subdivisions (1) and (2)].~~

1-28 (c) Except as provided by Subsection (d), a district created
1-29 under Section 36.0151 must be composed of territory within two or
1-30 more contiguous counties, unless the commission determines that a
1-31 district composed of territory within noncontiguous counties will
1-32 result in more effective or efficient groundwater management than
1-33 other legal options available to the commission.

1-34 (d) A district created under Section 36.0151 may be composed
1-35 of territory that exists within the boundaries of a single county
1-36 only if:

1-37 (1) the territory within the single county is the only
1-38 area within the designated priority groundwater management area
1-39 that is not within a district; or

1-40 (2) there are other areas within the designated
1-41 priority groundwater management area, but:

1-42 (A) the other areas are not contiguous to the
1-43 territory; and

1-44 (B) the commission determines that creating a
1-45 single district composed of two or more of the noncontiguous areas,
1-46 including the territory, would result in less effective or less
1-47 efficient management of groundwater resources in the territory than
1-48 creating a district composed of the territory within the single
1-49 county.

1-50 (e) For purposes of this section, the commission may
1-51 consider territory in two separately designated priority
1-52 groundwater management areas to be within the same designated
1-53 priority groundwater management area if:

1-54 (1) the priority groundwater management areas share a
1-55 common boundary and one or more common aquifers; and

1-56 (2) the commission determines that a district composed
1-57 of territory within the two areas will result in more effective or
1-58 efficient groundwater management than other legal options
1-59 available to the commission.

1-60 (f) Following the issuance of a commission order under
1-61 Section 35.008, the Texas Agricultural Extension Service shall
1-62 begin an educational program within such areas with the assistance
1-63 and cooperation of the Texas Water Development Board, the

2-1 commission, the Department of Agriculture, other state agencies,
 2-2 and existing districts to inform the residents of the status of the
 2-3 area's water resources and management options including possible
 2-4 formation of a district. The county commissioners court of each
 2-5 county in the priority groundwater management area shall form a
 2-6 steering committee to provide assistance to the Texas Agricultural
 2-7 Extension Service in accomplishing the goals of the education
 2-8 program within the area.

2-9 SECTION 1.02. Subsections (b), (c), (h), and (i), Section
 2-10 35.013, Water Code, are amended to read as follows:

2-11 (b) The commission shall submit a copy of the order to the
 2-12 board of the district to which it is recommending the priority
 2-13 groundwater management area be added. The board shall vote not
 2-14 later than the 120th day after receiving the copy of the order from
 2-15 the commission on the addition of the priority groundwater
 2-16 management area to the district and shall advise the commission of
 2-17 the outcome.

2-18 (c) If the board votes to accept the addition of the
 2-19 priority groundwater management area to the district, the board:

2-20 (1) may request the Texas Agricultural Extension
 2-21 Service, the commission, and the Texas Water Development Board,
 2-22 with the cooperation and assistance of the Department of
 2-23 Agriculture and other state agencies, to administer an educational
 2-24 program to inform the residents of the status of the area's water
 2-25 resources and management options including possible annexation
 2-26 into a district;

2-27 (2) shall call an election to be held not later than
 2-28 the 270th day after the date of the board's vote under Subsection
 2-29 (b) within the priority groundwater management area, or portion of
 2-30 the priority groundwater management area, as delineated by the
 2-31 commission to determine whether [if] the priority groundwater
 2-32 management area will be added to the district; and

2-33 (3) shall designate election precincts and polling
 2-34 places for the elections in the order calling an election under this
 2-35 subsection.

2-36 (h) If the proposition is defeated, or if the board of the
 2-37 existing district votes not to accept the addition of the area to
 2-38 the district, then the commission shall, except as provided under
 2-39 Subsection (i), create under Section 36.0151 one or more districts
 2-40 covering the priority groundwater management area not later than
 2-41 the later of:

2-42 (1) the second anniversary of the date on which the
 2-43 commission issued its order under Section 35.008 designating a
 2-44 priority groundwater management area; or

2-45 (2) the 180th day after the date described under
 2-46 Subdivision (1) if the legislature is in session on the date
 2-47 described under Subdivision (1) and a bill has been filed and is
 2-48 pending before the legislature to create a district in all or part
 2-49 of the area or to add all or part of the area to an existing district
 2-50 [the first anniversary of the date on which the proposition is
 2-51 defeated or the board votes not to accept the area].

2-52 (i) In creating a district under Section 36.0151, the
 2-53 commission may modify the recommendation issued in its order for
 2-54 district creation under Section 35.008 to reflect the failure of an
 2-55 area to be added to an existing district or to account for the
 2-56 creation of any new districts or the addition of any other territory
 2-57 in the priority groundwater management area to an existing district
 2-58 during the intervening period, provided, however, that such
 2-59 modification does not affect the deadlines for district creation
 2-60 under Section 35.012 or this section. For an area that is not
 2-61 feasible for the creation of one or more districts as determined in
 2-62 the commission's findings under Section 35.008, the commission
 2-63 shall include in its report under Section 35.018 recommendations
 2-64 for the future management of the priority groundwater management
 2-65 area.

2-66 SECTION 1.03. Section 49.101, Water Code, is amended to
 2-67 read as follows:

2-68 Sec. 49.101. GENERAL. (a) All elections shall be
 2-69 generally conducted in accordance with the Election Code except as

3-1 otherwise provided for by this code.
 3-2 (b) Write-in candidacies for any district office shall be
 3-3 governed by Subchapter C, Chapter 146, Election Code.
 3-4 (c) The board may contract with a person to serve as the
 3-5 district's agent in the same manner as another officer or employee
 3-6 of the district under Section 31.123, Election Code.
 3-7 (d) Sections 32.009 and 42.002, Election Code, do not apply
 3-8 to an election held by a district.
 3-9 (e) Notwithstanding the requirements of Section 32.051,
 3-10 Election Code, to serve as an election judge in an election held by
 3-11 a district, a person must be a registered voter of the county in
 3-12 which the district is located.
 3-13 (f) Notwithstanding Sections 61.012 and 61.013, Election
 3-14 Code, a district is exempt from the acquisition, lease, or use of an
 3-15 electronic voting system for an election if:
 3-16 (1) the election is a confirmation election or an
 3-17 election held jointly with a confirmation election on the same date
 3-18 and in conjunction with the confirmation election, except for an
 3-19 election in which a federal office appears on the ballot;
 3-20 (2) the most recently scheduled district directors
 3-21 election was not held, as provided by Section 2.053(b), Election
 3-22 Code; or
 3-23 (3) fewer than 250 voters voted at the most recently
 3-24 held district directors election.
 3-25 (g) A district eligible for the exemption under Subsection
 3-26 (f) must publish notice in a periodical of general circulation in an
 3-27 area that includes the district and mail notice to each voter in the
 3-28 district regarding the district's intention to hold an election
 3-29 without providing a voting station that meets the requirements for
 3-30 accessibility under 42 U.S.C. Section 15481(a)(3) on election day
 3-31 and during the period for early voting by personal appearance. The
 3-32 notice must provide that any voter in the district may request the
 3-33 use of a voting station that meets those requirements to
 3-34 accommodate voting by a person with a disability and provide
 3-35 information on how to submit such a request. On receiving such a
 3-36 request, the district shall comply with the request.
 3-37 SECTION 1.04. Subchapter D, Chapter 49, Water Code, is
 3-38 amended by adding Section 49.1045 to read as follows:
 3-39 Sec. 49.1045. JOINT ELECTIONS WITH COUNTIES. (a) This
 3-40 section applies only to a district with 10 or fewer registered
 3-41 voters.
 3-42 (b) A district that holds an election jointly with a county
 3-43 in which the district is wholly or partly located may provide for a
 3-44 certification of the voting results if the election results
 3-45 indicate that there were more votes cast in the election than the
 3-46 number of registered voters in the district. To certify the
 3-47 district votes, the district may have each person whose signature
 3-48 is on the sign-in sheet for the joint election certify the manner in
 3-49 which the person voted in the election and that the person was a
 3-50 qualified voter on the day of the election, and the certified votes
 3-51 shall be used as the official election results.
 3-52 SECTION 1.05. Section 49.107, Water Code, is amended by
 3-53 adding Subsection (i) to read as follows:
 3-54 (i) Section 375.161, Local Government Code, does not apply
 3-55 to an impact fee, tax, or other requirement for payment for water,
 3-56 sewer, drainage, reclamation, flood control, road, or park and
 3-57 recreational services or improvements of a district that provides,
 3-58 or proposes to provide, those services or improvements.
 3-59 SECTION 1.06. Section 49.108, Water Code, is amended by
 3-60 adding Subsections (g), (h), (i), and (j) to read as follows:
 3-61 (g) Not later than the 10th day before the date an election
 3-62 is held to authorize a contract, a substantially final form of the
 3-63 contract must be filed in the office of the district and must be
 3-64 open to inspection by the public. The contract is not required to
 3-65 be attached as an exhibit to the order calling the election to
 3-66 authorize the contract.
 3-67 (h) A single contract may contain multiple purposes or
 3-68 facilities authorized by one or more constitutional provisions. A
 3-69 contract described by this subsection may be submitted for approval

4-1 in a single proposition at an election.

4-2 (i) A contract between districts for the provision of
 4-3 facilities or services is not required to specify the maximum
 4-4 amount of bonds or expenditures authorized under the contract if
 4-5 the contract provides that the service area cannot be enlarged
 4-6 without the consent of at least two-thirds of the districts that are
 4-7 included in the service area or served by the facilities or services
 4-8 provided for in the contract.

4-9 (j) A contract may generally describe the facilities to be
 4-10 acquired or financed by the district without reference to specific
 4-11 constitutional provisions.

4-12 SECTION 1.07. Section 49.151(c), Water Code, is amended to
 4-13 read as follows:

4-14 (c) The board may allow disbursements of district money to
 4-15 be transferred by federal reserve wire system or by electronic
 4-16 means. The board by resolution may allow the wire or electronic
 4-17 transfers to accounts in the name of the district or accounts not in
 4-18 the name of the district.

4-19 SECTION 1.08. Section 49.194, Water Code, is amended by
 4-20 amending Subsections (a) and (b) and adding Subsection (h) to read
 4-21 as follows:

4-22 (a) Except as provided by Subsection (h), after [~~After~~] the
 4-23 board has approved the audit, it shall submit a copy of the report
 4-24 to the executive director for filing within 135 days after the close
 4-25 of the district's fiscal year.

4-26 (b) Except as provided by Subsection (h), if [~~If~~] the board
 4-27 refuses to approve the annual audit report, the board shall submit a
 4-28 copy of the report to the executive director for filing within 135
 4-29 days after the close of the district's fiscal year, accompanied by a
 4-30 statement from the board explaining the reasons for its failure to
 4-31 approve the report.

4-32 (h) A special water authority shall submit a copy of the
 4-33 report to the executive director for filing within 160 days after
 4-34 the close of the special water authority's fiscal year.

4-35 SECTION 1.09. Section 49.213, Water Code, is amended by
 4-36 amending Subsection (c) and adding Subsection (d) to read as
 4-37 follows:

4-38 (c) A district may enter into contracts, which may be of
 4-39 unlimited duration, with persons or any public or private entities
 4-40 on the terms and conditions the board may consider desirable, fair,
 4-41 and advantageous for:

4-42 (1) the purchase or sale of water;

4-43 (2) the collection, transportation, treatment, and
 4-44 disposal of its domestic, industrial, and communal wastes or the
 4-45 collection, transportation, treatment, and disposal of domestic,
 4-46 industrial, and communal wastes of other persons;

4-47 (3) the gathering, diverting, and control of local
 4-48 storm water, or other local harmful excesses of water;

4-49 (4) the continuing and orderly development of the land
 4-50 and property within the district through the purchase,
 4-51 construction, or installation of works, improvements, facilities,
 4-52 plants, equipment, and appliances that the district may otherwise
 4-53 be empowered and authorized to do or perform so that, to the
 4-54 greatest extent reasonably possible, considering sound engineering
 4-55 and economic practices, all of the land and property may be placed
 4-56 in a position to ultimately receive the services of the works,
 4-57 improvements, plants, facilities, equipment, and appliances;

4-58 (5) the maintenance and operation of any works,
 4-59 improvements, facilities, plants, equipment, and appliances of the
 4-60 district or of another person or public or private entity;

4-61 (6) the collection, treatment, and disposal of
 4-62 municipal solid wastes; [~~and~~]

4-63 (7) the establishment, administration, and
 4-64 enforcement of a groundwater reduction plan to comply with
 4-65 regulatory requirements of a political subdivision whose main
 4-66 office is located in a county with a population of more than 3.3
 4-67 million or in a county adjacent to such a county; and

4-68 (8) the exercise of any other rights, powers, and
 4-69 duties granted to a district.

5-1 (d) A written contract between a district and any person,
 5-2 including any public or private entity, for the provision of goods
 5-3 or services to the district, including a contract entered into with
 5-4 a governmental entity, other than a county, under Subsection
 5-5 (c)(7), is a contract subject to Subchapter I, Chapter 271, Local
 5-6 Government Code. The district and any person, including any public
 5-7 or private entity, waive sovereign immunity to suit for the purpose
 5-8 of adjudicating a claim for a breach of the contract, subject to the
 5-9 terms and conditions of Subchapter I, Chapter 271, Local Government
 5-10 Code.

5-11 SECTION 1.10. Section 49.216, Water Code, is amended by
 5-12 amending Subsection (e) and adding Subsection (f) to read as
 5-13 follows:

5-14 (e) Any peace officer who is directly employed by a
 5-15 district, before beginning to perform any duties and at the time of
 5-16 appointment, must take an oath and execute a bond conditioned on
 5-17 faithful performance of such officer's duties in the amount of
 5-18 \$1,000 payable to the district. The oath and the bond shall be
 5-19 filed in the district office.

5-20 (f) A peace officer contracted for by the district,
 5-21 individually or through a county, sheriff, constable, or
 5-22 municipality, is an independent contractor, and the district is
 5-23 responsible for the acts or omissions of the peace officer only to
 5-24 the extent provided by law for other independent contractors.

5-25 SECTION 1.11. Section 49.273(d), Water Code, is amended to
 5-26 read as follows:

5-27 (d) For contracts over \$50,000, the board shall advertise
 5-28 the letting of the contract, including the general conditions,
 5-29 time, and place of opening of sealed bids. The notice must ~~[shall]~~
 5-30 be published in one or more newspapers circulated in each county in
 5-31 which part of the district is located. If one newspaper meets both
 5-32 of these requirements, publication in such newspaper is sufficient.
 5-33 If there are more than four counties in the district, notice may be
 5-34 published in any newspaper with general circulation in the
 5-35 district. The notice must ~~[shall]~~ be published once a week for two
 5-36 consecutive weeks before the date that the bids are opened, and the
 5-37 first publication must ~~[shall]~~ be not later than the 14th ~~[21st]~~ day
 5-38 before the date of the opening of the sealed bids.

5-39 SECTION 1.12. Section 49.351, Water Code, is amended by
 5-40 amending Subsections (a), (b), (c), (f), (i), and (l) and adding
 5-41 Subsection (m) to read as follows:

5-42 (a) A district providing potable water or sewer service to
 5-43 household users may establish, operate, and maintain, finance with
 5-44 ad valorem taxes, mandatory fees, or voluntary contributions, and
 5-45 issue bonds for a fire department to perform all fire-fighting
 5-46 services within the district as provided in this subchapter and may
 5-47 provide for ~~[issue bonds or impose a mandatory fee, with voter~~
 5-48 ~~approval, for financing a plan approved in accordance with this~~
 5-49 ~~section, including]~~ the construction and purchase of necessary
 5-50 buildings, facilities, land, and equipment and the provision of an
 5-51 adequate water supply.

5-52 (b) After complying with the requirements of this section
 5-53 ~~[approval of the district electors of a plan to operate, jointly~~
 5-54 ~~operate, or jointly fund the operation of a fire department, and~~
 5-55 ~~after complying with Subsections (g), (h), and (i)],~~ the district
 5-56 or districts shall provide an adequate system and water supply for
 5-57 fire-fighting purposes, may purchase necessary land, may construct
 5-58 and purchase necessary buildings, facilities, and equipment, and
 5-59 may employ or contract with a fire department to employ all
 5-60 necessary personnel including supervisory personnel to operate the
 5-61 fire department.

5-62 (c) Bonds shall be authorized and may be issued and ad
 5-63 valorem taxes shall be authorized and may be imposed for financing a
 5-64 plan approved in accordance with this section ~~[shall be authorized~~
 5-65 ~~and may be issued, and a district shall be authorized to levy a tax~~
 5-66 ~~to pay the principal of and interest on such bonds,]~~ as provided by
 5-67 law for authorization and issuance of other bonds and authorization
 5-68 and imposition of other ad valorem taxes of the district.

5-69 (f) Before a district imposes an ad valorem tax or issues

6-1 bonds payable wholly or partly from ad valorem taxes to finance the
6-2 establishment of [establishes] a fire department, a contract
6-3 [contracts] to operate a joint fire department, or a contract
6-4 [contracts] with another person to perform fire-fighting services
6-5 within the district, the district must comply with the provisions
6-6 of Subsections (g), (h), and (i). A district that funds
6-7 fire-fighting services with revenue, including mandatory fees or
6-8 voluntary contributions, is not required to comply with the
6-9 provisions of Subsection (g), (h), or (i).

6-10 (i) After approval of a plan by the commission, the district
6-11 shall submit to the electors of the district at the election to
6-12 approve bonds payable wholly or partly from ad valorem taxes or to
6-13 impose ad valorem taxes ~~[to impose a mandatory fee]~~ for financing
6-14 the plan, ~~[or if no bonds or fees are to be approved, at an election~~
6-15 ~~called for approval of the plan,]~~ which may be held in conjunction
6-16 with an election required by Section 49.102, the proposition of
6-17 whether or not the plan should be implemented or entered into by the
6-18 district. ~~[The ballots at the election shall be printed, as~~
6-19 ~~applicable, to provide for voting for or against the proposition:~~
6-20 ~~"The implementation of the plan for (operation/joint operation) of~~
6-21 ~~a fire department", or "The plan and contract to provide~~
6-22 ~~fire-fighting services for the district."]~~

6-23 (l) A ~~[Notwithstanding the requirements of Subsections~~
6-24 ~~(a)-(j), a]~~ district providing potable water or sewer service to
6-25 household users may as part of its billing process collect from its
6-26 customers a voluntary contribution on behalf of organizations
6-27 providing fire-fighting services to the district. A district that
6-28 chooses to collect a voluntary contribution under this subsection
6-29 must give reasonable notice to its customers that the contribution
6-30 is voluntary. Water and sewer service may not be terminated as a
6-31 result of failure to pay the voluntary contribution.

6-32 (m) Notwithstanding Subsection (l), if a customer makes a
6-33 partial payment of a district bill for water or sewer service and
6-34 includes with the payment a voluntary contribution for
6-35 fire-fighting services, the district shall apply the voluntary
6-36 contribution first to the bill for water or sewer service,
6-37 including any interest or penalties imposed. Any amount remaining
6-38 shall be used for fire-fighting services.

6-39 SECTION 1.13. Section 49.4645(a), Water Code, is amended to
6-40 read as follows:

6-41 (a) A district all or part of which is located in Bastrop
6-42 County, Bexar County, Waller County, Travis County, Williamson
6-43 County, Harris County, Galveston County, Brazoria County,
6-44 Montgomery County, or Fort Bend County may issue bonds supported by
6-45 ad valorem taxes to pay for the development and maintenance of
6-46 recreational facilities only if the bonds are authorized by a
6-47 majority vote of the qualified voters of the district voting in an
6-48 election held for that purpose. The outstanding principal amount
6-49 of bonds, notes, and other obligations issued to finance parks and
6-50 recreational facilities supported by ad valorem taxes ~~[payable from~~
6-51 ~~any source]~~ may not exceed an amount equal to one percent of the
6-52 value of the taxable property in the district as shown by the tax
6-53 rolls of the central appraisal district at the time of the issuance
6-54 of the bonds, notes, and other obligations or an amount greater than
6-55 the estimated cost provided in the park plan under Subsection (b),
6-56 whichever is smaller. The district may not issue bonds supported by
6-57 ad valorem taxes to pay for the development and maintenance of:

- 6-58 (1) indoor or outdoor swimming pools; or
- 6-59 (2) golf courses.

6-60 SECTION 1.14. Section 51.523, Water Code, is amended to
6-61 read as follows:

6-62 Sec. 51.523. BALLOTS. The ballot for an election under this
6-63 subchapter shall be printed to provide for voting for or against
6-64 defining the area to be taxed or designating the property to be
6-65 served, affected, and taxed and, if applicable, issuing bonds and
6-66 imposing a tax to retire the bonds or imposing a maintenance tax not
6-67 to exceed the rate, which must be specified in the ballot
6-68 proposition, provided by the proposed plan of taxation.
6-69 ~~[substantially the proposition: "Designation of the area, issuance~~

7-1 ~~of bonds, and levy of a tax to retire the bonds."]~~
 7-2 SECTION 1.15. Section 51.527, Water Code, is amended by
 7-3 adding Subsection (c) to read as follows:
 7-4 (c) Unless a maintenance tax is imposed in the defined area
 7-5 or on the designated property, once bonds issued for the defined
 7-6 area or designated property are paid off or defeased, the board may
 7-7 declare the defined area dissolved or may repeal the designation of
 7-8 the designated property, at which time the board shall cease
 7-9 imposing taxes on the property located in the defined area or on the
 7-10 designated property.

7-11 SECTION 1.16. Section 54.236, Water Code, is amended to
 7-12 read as follows:

7-13 Sec. 54.236. STREET OR SECURITY LIGHTING. Subject to the
 7-14 provisions of this section, a district may purchase, install,
 7-15 operate, and maintain street lighting or security lighting within
 7-16 public utility easements or public rights-of-way or property owned
 7-17 by the district [~~within the boundaries of the district~~]. A
 7-18 district, other than a district exercising powers under Section
 7-19 54.234 or Subchapter N, Chapter 49, may not issue bonds supported by
 7-20 ad valorem taxes to pay for the purchase, installation, and
 7-21 maintenance of street or security lighting.

7-22 SECTION 1.17. Section 54.739, Water Code, is amended to
 7-23 read as follows:

7-24 Sec. 54.739. SUBSTITUTING PROPERTY [~~LAND~~] OF EQUAL VALUE.
 7-25 After the district is organized and has obtained voter approval for
 7-26 the issuance of, or has sold, bonds payable wholly or partly from ad
 7-27 valorem taxes, property [~~acquires facilities with which to function~~
 7-28 ~~for the purposes for which it was organized, and votes, issues and~~
 7-29 ~~sells bonds for such purposes, land~~] within the district boundaries
 7-30 subject to taxation that does not need or utilize the services of
 7-31 the district may be excluded and other property [~~land~~] not within
 7-32 the boundaries of the district may be included within the
 7-33 boundaries of the district without impairment of the security for
 7-34 payment of [~~the~~] bonds or invalidation of any prior bond election,
 7-35 as provided by this section and Sections 54.740 through 54.747.

7-36 SECTION 1.18. Section 54.744, Water Code, is amended to
 7-37 read as follows:

7-38 Sec. 54.744. IMPAIRMENT OF SECURITY. (a) For purposes of
 7-39 the board's consideration of the applications, the lands proposed
 7-40 for inclusion shall be deemed to be sufficient to avoid an
 7-41 impairment of the security for payment of obligations of the
 7-42 district if:

7-43 (1) according to the most recent tax roll of the
 7-44 district or the most recently certified estimates of taxable value
 7-45 from the chief appraiser of the appropriate appraisal district, the
 7-46 taxable value of such included lands equals or exceeds the taxable
 7-47 value of the excluded lands;

7-48 (2) either the estimated costs of providing district
 7-49 facilities and services to such included lands is equal to or less
 7-50 than the estimated costs of providing district facilities and
 7-51 services to the excluded lands or any increased estimated costs of
 7-52 providing district facilities and services to the included land, as
 7-53 determined by the district's engineer, can be amortized at
 7-54 prevailing bond interest rates and maturity schedules and the
 7-55 prevailing debt service tax rate of the district, as determined by
 7-56 the district's professional financial advisor, when applied to the
 7-57 increase in taxable value of the included land over the taxable
 7-58 value of the excluded land; and

7-59 (3) with respect only to a district with [~~the~~
 7-60 ~~district's~~] outstanding bonds or contract obligations [~~are~~]
 7-61 payable in whole or in part by a pledge of net revenues from the
 7-62 ownership or operation of the district's facilities, [~~and~~] the
 7-63 projected net revenues to be derived from the property [~~lands~~] to be
 7-64 included during the succeeding 12-month period, as determined by
 7-65 the district's engineer, equals or exceeds the projected net
 7-66 revenues that would otherwise have been derived from the property
 7-67 [~~lands~~] to be excluded during the same period.

7-68 (b) For purposes of this section, the taxable value of
 7-69 included property means the market value of the property if, before

8-1 or contemporaneously with the inclusion of the property in the
8-2 district, the owner of the property waives the right to special
8-3 appraisal of the property as to the district as authorized by
8-4 Section 23.20, Tax Code.

8-5 SECTION 1.19. Section 388.005, Health and Safety Code, as
8-6 amended by Chapters 262 (S.B. 12) and 939 (H.B. 3693), Acts of the
8-7 80th Legislature, Regular Session, 2007, is reenacted and amended
8-8 to read as follows:

8-9 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN INSTITUTIONS OF
8-10 HIGHER EDUCATION[~~STATE AGENCIES,~~] AND CERTAIN GOVERNMENTAL
8-11 ENTITIES. (a) In this section:

8-12 (1) "Institution of higher education" includes an
8-13 institution of higher education as defined by Section 61.003,
8-14 Education Code, and a private institution of higher education that
8-15 receives funding from the state.

8-16 (2) "Political subdivision" means:
8-17 (A) an affected county; or
8-18 (B) any political subdivision in a nonattainment
8-19 area or in an affected county other than:

8-20 (i) a school district; or
8-21 (ii) a district as defined by Section
8-22 36.001 or 49.001, Water Code, that had a total annual electricity
8-23 expense of less than \$200,000 in the previous fiscal year of the
8-24 district.

8-25 (3) "State agency" means a department, commission,
8-26 board, office, council, or other agency in the executive branch of
8-27 state government that is created by the constitution or a statute of
8-28 this state and has authority not limited to a geographical portion
8-29 of the state.

8-30 (b) Each political subdivision, institution of higher
8-31 education, or state agency shall implement all energy efficiency
8-32 measures that meet the standards established for a contract for
8-33 energy conservation measures under Section 302.004(b), Local
8-34 Government Code, in order to reduce electricity consumption by the
8-35 existing facilities of the entity.

8-36 (c) Each political subdivision, institution of higher
8-37 education, or state agency shall establish a goal to reduce the
8-38 electric consumption by the entity by five percent each state
8-39 fiscal year for six years, beginning September 1, 2007.

8-40 (d) A political subdivision, institution of higher
8-41 education, or state agency that does not attain the goals under
8-42 Subsection (c) must include in the report required by Subsection
8-43 (e) justification that the entity has already implemented all
8-44 available measures. An entity that submits a report under this
8-45 subsection indicating it has already implemented all available
8-46 measures is exempt from the annual reporting requirement of
8-47 Subsection (e) if a subsequent report would indicate no change in
8-48 status. An entity may be required to provide notice that it is
8-49 exempt to the State Energy Conservation Office.

8-50 (e) A political subdivision, institution of higher
8-51 education, or state agency annually shall report to the State
8-52 Energy Conservation Office, on forms provided by that office,
8-53 regarding the entity's efforts and progress under this section.
8-54 The State Energy Conservation Office shall provide assistance and
8-55 information to the entity to help the entity meet the goals set
8-56 under this section.

8-57 (f) This section does not apply to a state agency or an
8-58 institution of higher education that the State Energy Conservation
8-59 Office determines that, before September 1, 2007, adopted a plan
8-60 for conserving energy under which the agency or institution
8-61 established a percentage goal for reducing the consumption of
8-62 electricity. The exemption provided by this section applies only
8-63 while the agency or institution has an energy conservation plan in
8-64 effect and only if the agency or institution submits reports on the
8-65 conservation plan each calendar quarter to the governor, the
8-66 Legislative Budget Board, and the State Energy Conservation Office.

8-67 (g) This section does not apply to the electricity
8-68 consumption of a district as defined by Section 36.001 or 49.001,
8-69 Water Code, that relates to the operation and maintenance of

9-1 wastewater collection and treatment, water supply and
9-2 distribution, or stormwater diversion, detention, or pumping
9-3 facilities or improvements.

9-4 SECTION 1.20. Section 43.0751(a)(1), Local Government
9-5 Code, is amended to read as follows:

9-6 (1) "District" means a conservation and reclamation
9-7 [water control and improvement] district [or a municipal utility
9-8 district created or] operating under Chapter 49 [51 or 54], Water
9-9 Code.

9-10 SECTION 1.21. Section 43.0751, Local Government Code, is
9-11 amended by adding Subsection (r) to read as follows:

9-12 (r) To be annexed for limited purposes under this section,
9-13 an area must be:

9-14 (1) in the municipality's extraterritorial
9-15 jurisdiction; and

9-16 (2) contiguous to the corporate or limited purpose
9-17 boundaries of the municipality, unless the district consents to
9-18 noncontiguous annexation pursuant to a strategic partnership
9-19 agreement with the municipality.

9-20 SECTION 1.22. Notwithstanding Section 35.012, Water Code,
9-21 as amended by this article, and Section 36.0151, Water Code, the
9-22 Texas Commission on Environmental Quality may not create a
9-23 groundwater conservation district under Section 36.0151, Water
9-24 Code, before September 1, 2011, in territory that exists within the
9-25 boundaries of a single county in which total surface water use is
9-26 more than 50 times the total groundwater production and that is
9-27 located in a priority groundwater management area.

9-28 SECTION 1.23. Notwithstanding Section 35.012, Water Code,
9-29 as amended by this article, and Section 36.0151, Water Code, the
9-30 Texas Commission on Environmental Quality may not create a
9-31 groundwater conservation district under Section 36.0151, Water
9-32 Code, before September 1, 2011, in territory that is located in an
9-33 area that on or after September 1, 2008, is designated by the
9-34 commission as a priority groundwater management area.

9-35 ARTICLE 2. PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT

9-36 SECTION 2.01. The purpose of Chapter 8855, Special District
9-37 Local Laws Code, as added by this article, is to establish the
9-38 powers and authority of a certain district to be created in a part
9-39 of this state that under Chapter 35, Water Code, the Texas
9-40 Commission on Environmental Quality has designated a priority
9-41 groundwater management area.

9-42 SECTION 2.02. Subtitle H, Title 6, Special District Local
9-43 Laws Code, is amended by adding Chapter 8855 to read as follows:

9-44 CHAPTER 8855. PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT

9-45 SUBCHAPTER A. GENERAL PROVISIONS

9-46 Sec. 8855.001. DEFINITIONS. In this chapter:

9-47 (1) "Board" means the board of directors of the
9-48 district.

9-49 (2) "Director" means a member of the board.

9-50 (3) "District" means the Prairielands Groundwater
9-51 Conservation District.

9-52 Sec. 8855.002. NATURE OF DISTRICT; FINDINGS. (a) The
9-53 district is a groundwater conservation district initially composed
9-54 of Ellis, Hill, Johnson, and Somervell Counties created under and
9-55 essential to accomplish the purposes of Section 59, Article XVI,
9-56 Texas Constitution.

9-57 (b) The district is created to serve a public use and
9-58 benefit.

9-59 (c) All of the land and other property included within the
9-60 boundaries of the district will be benefited by the works and
9-61 projects that are to be accomplished by the district under powers
9-62 conferred by this chapter and by Chapter 36, Water Code.

9-63 (d) Any fees imposed by the district under this chapter are
9-64 necessary to pay for the costs of accomplishing the purposes of the
9-65 district, including the conservation and management of groundwater
9-66 resources, as provided by this chapter and Section 59, Article XVI,
9-67 Texas Constitution.

9-68 Sec. 8855.003. DISTRICT TERRITORY. The initial boundaries
9-69 of the district are coextensive with the boundaries of Ellis, Hill,

10-1 Johnson, and Somervell Counties.
 10-2 Sec. 8855.004. APPLICABILITY OF OTHER GROUNDWATER
 10-3 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
 10-4 chapter, Chapter 36, Water Code, applies to the district.
 10-5 Sec. 8855.005. CONSTRUCTION OF CHAPTER. This chapter shall
 10-6 be liberally construed to achieve the purposes expressed by this
 10-7 chapter and Chapter 36, Water Code. A power granted by this chapter
 10-8 or Chapter 36, Water Code, shall be broadly interpreted to achieve
 10-9 that intent and those purposes.
 10-10 [Sections 8855.006-8855.020 reserved for expansion]
 10-11 SUBCHAPTER B. INITIAL ORGANIZATION
 10-12 Sec. 8855.021. APPOINTMENT OF INITIAL DIRECTORS. (a) The
 10-13 district is governed by a board of eight initial directors
 10-14 appointed as provided by Section 8855.051(a).
 10-15 (b) Initial directors shall be appointed not later than the
 10-16 90th day after the effective date of the Act enacting this chapter.
 10-17 If after the 90th day fewer than eight initial directors have been
 10-18 appointed, each unfilled initial director position shall be
 10-19 considered a vacancy and filled by the remaining initial directors.
 10-20 (c) Except as provided under Subsection (b) for failure to
 10-21 appoint an initial director, if a vacancy occurs on the board in a
 10-22 position for which an initial director has previously been
 10-23 appointed, the appointing county commissioners court for the vacant
 10-24 position shall appoint a person to fill the vacancy in a manner that
 10-25 meets the representational requirements of Section 8855.051.
 10-26 (d) To be eligible to serve as an initial director, a person
 10-27 must be a registered voter in the appointing county.
 10-28 (e) Each initial director must qualify to serve as a
 10-29 director under Section 36.055, Water Code.
 10-30 Sec. 8855.022. ORGANIZATIONAL MEETING OF INITIAL
 10-31 DIRECTORS. As soon as practicable after all the initial directors
 10-32 have qualified under Section 36.055, Water Code, a majority of the
 10-33 initial directors shall convene the organizational meeting of the
 10-34 district at a location in the district agreeable to a majority of
 10-35 the directors. If an agreement on location cannot be reached, the
 10-36 organizational meeting shall be held at a suitable location on the
 10-37 Hill College campus in Cleburne, Johnson County, Texas.
 10-38 Sec. 8855.023. INITIAL TERMS. (a) The two initial
 10-39 directors appointed from each county shall draw lots to determine
 10-40 which director serves an initial term expiring August 31, 2011, and
 10-41 which director serves an initial term expiring August 31, 2013.
 10-42 (b) Each successor director shall be appointed and shall
 10-43 serve in accordance with Subchapter C.
 10-44 [Sections 8855.024-8855.050 reserved for expansion]
 10-45 SUBCHAPTER C. BOARD OF DIRECTORS
 10-46 Sec. 8855.051. GOVERNING BODY; TERMS. (a) Except as
 10-47 provided by Subchapter D, the district is governed by a board of
 10-48 eight directors appointed as follows:
 10-49 (1) two directors appointed by the Ellis County
 10-50 Commissioners Court;
 10-51 (2) two directors appointed by the Hill County
 10-52 Commissioners Court;
 10-53 (3) two directors appointed by the Johnson County
 10-54 Commissioners Court; and
 10-55 (4) two directors appointed by the Somervell County
 10-56 Commissioners Court.
 10-57 (b) Directors serve staggered four-year terms, with the
 10-58 term of one director from each of the four counties expiring on
 10-59 August 31 of each odd-numbered year.
 10-60 (c) A director may serve multiple consecutive terms.
 10-61 Sec. 8855.052. DIRECTOR ELIGIBILITY; QUALIFICATION.
 10-62 (a) To be eligible to serve as a director, a person must be a
 10-63 registered voter in the appointing county.
 10-64 (b) Each director must qualify to serve under Section
 10-65 36.055, Water Code.
 10-66 Sec. 8855.053. VACANCIES. If a vacancy occurs on the board,
 10-67 the appointing county commissioners court for the vacant position
 10-68 shall appoint a person to fill the vacancy. Section 36.051(c),
 10-69 Water Code, does not apply to the district.

11-1 Sec. 8855.054. COMPENSATION; REIMBURSEMENT.
 11-2 (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a
 11-3 director may not receive compensation for performing the duties of
 11-4 director.

11-5 (b) A director is entitled to reimbursement of actual
 11-6 expenses reasonably and necessarily incurred while engaging in
 11-7 activities on behalf of the district.

11-8 [Sections 8855.055-8855.070 reserved for expansion]

11-9 SUBCHAPTER D. DISTRICT EXPANSION

11-10 Sec. 8855.071. EXPANSION OF DISTRICT BOUNDARIES.

11-11 (a) After the effective date of the Act enacting this chapter, the
 11-12 district territory described in Section 8855.003 shall be expanded
 11-13 to include all of the territory in Navarro County, and the governing
 11-14 board described by Section 8855.051(a) shall be expanded to 10
 11-15 members and include two directors appointed by the Navarro County
 11-16 Commissioners Court, if:

11-17 (1) pursuant to Chapter 35, Water Code, the Texas
 11-18 Commission on Environmental Quality designates all or any portion
 11-19 of the territory in Navarro County as a priority groundwater
 11-20 management area; and

11-21 (2) following the designation described by
 11-22 Subdivision (1), the commissioners court of Navarro County:

11-23 (A) adopts a resolution that states, "By this
 11-24 action of the Navarro County Commissioners Court, all of the
 11-25 territory in Navarro County, Texas, shall, as of the date of this
 11-26 resolution, be included in the boundaries of the Prairielands
 11-27 Groundwater Conservation District"; and

11-28 (B) appoints two directors who are registered to
 11-29 vote in Navarro County to the board.

11-30 (b) A person appointed under this section must qualify to
 11-31 serve under Section 36.055, Water Code.

11-32 (c) At the first regular meeting of the board following the
 11-33 qualification of both directors, the two directors appointed under
 11-34 this section shall draw lots to determine which director serves a
 11-35 term expiring August 31 of the first odd-numbered year after the
 11-36 directors' appointment, and which director serves a term expiring
 11-37 August 31 of the next odd-numbered year.

11-38 (d) A director appointed under this section shall otherwise
 11-39 serve in accordance with Subchapter C.

11-40 [Sections 8855.072-8855.100 reserved for expansion]

11-41 SUBCHAPTER E. POWERS AND DUTIES

11-42 Sec. 8855.101. GROUNDWATER CONSERVATION DISTRICT POWERS
 11-43 AND DUTIES. Except as provided by this chapter, the district has
 11-44 the powers and duties provided by the general law of this state
 11-45 applicable to groundwater conservation districts created under
 11-46 Section 59, Article XVI, Texas Constitution, including Chapter 36,
 11-47 Water Code.

11-48 Sec. 8855.102. CONTRACTS. The district may enter into a
 11-49 contract with any person, public or private, for any purpose
 11-50 authorized by law.

11-51 Sec. 8855.103. APPLICABILITY OF DISTRICT REGULATIONS.
 11-52 Groundwater regulation under this chapter applies to all persons
 11-53 except as exempted from permitting under Section 36.117, Water
 11-54 Code, or this chapter.

11-55 Sec. 8855.104. WELL SPACING RULES; EXEMPTIONS. (a) Except
 11-56 as provided by Subsection (b), the district shall exempt from the
 11-57 well spacing requirements adopted by the district any well that is
 11-58 completed on or before the effective date of those requirements.

11-59 (b) The district may provide by rule that a well may lose its
 11-60 exemption under this section if the well is modified in a manner
 11-61 that substantially increases the capacity of the well after the
 11-62 effective date of the well spacing requirements adopted by the
 11-63 district.

11-64 (c) Except as provided by this section and notwithstanding
 11-65 Section 8855.103, the district may require a well or class of wells
 11-66 exempt from permitting under Chapter 36, Water Code, to comply with
 11-67 the well spacing requirements adopted by the district. The
 11-68 district shall apply well spacing requirements uniformly to any
 11-69 well or class of wells based on the size or capacity of the well and

12-1 without regard to the type of use of the groundwater produced by the
 12-2 well.

12-3 Sec. 8855.105. REGISTRATION AND REPORTING REQUIREMENTS FOR
 12-4 CERTAIN EXEMPT WELLS. The district may adopt rules that require the
 12-5 owner or operator of a well or class of wells exempt from permitting
 12-6 under Section 36.117, Water Code, to register the well with the
 12-7 district and, except for a well exempt from permitting under
 12-8 Section 36.117(b)(1), to report groundwater withdrawals from the
 12-9 well using reasonable and appropriate reporting methods and
 12-10 frequency.

12-11 Sec. 8855.106. ENFORCEMENT. (a) The district may enforce
 12-12 this chapter against any person in the manner provided by Chapter
 12-13 36, Water Code. In lieu of a remedy available to the district under
 12-14 Section 36.102, Water Code, or in addition to those remedies, the
 12-15 district may impose a fee in addition to a fee assessed under
 12-16 Section 8855.152 on a person producing groundwater in violation of
 12-17 a district order or rule, including the failure or refusal to comply
 12-18 with any district order or rule relating to reducing or ceasing
 12-19 groundwater use. The purpose of a fee authorized by this subsection
 12-20 is to serve as a disincentive to producing groundwater except as
 12-21 authorized by the district.

12-22 (b) A fee imposed under Subsection (a) may not exceed an
 12-23 amount equal to 10 times the amount of a fee assessed under Section
 12-24 8855.152.

12-25 [Sections 8855.107-8855.150 reserved for expansion]

12-26 SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

12-27 Sec. 8855.151. TAXES PROHIBITED. The district may not
 12-28 impose a tax. Sections 36.020(a) and 36.201-36.204, Water Code, do
 12-29 not apply to the district.

12-30 Sec. 8855.152. DISTRICT REVENUES. (a) The district by
 12-31 rule, resolution, or order may establish, amend, pledge, encumber,
 12-32 spend the proceeds from, and assess to any person production fees,
 12-33 based on the amount of groundwater authorized by permit to be
 12-34 withdrawn from a well or on the amount of water actually withdrawn,
 12-35 to enable the district to fulfill its purposes and regulatory
 12-36 functions as provided by this chapter. The district may use revenue
 12-37 generated by fees it assesses for any lawful purpose.

12-38 (b) Notwithstanding any provision of general law to the
 12-39 contrary, a fee authorized by Subsection (a) may not exceed:

12-40 (1) \$1 per acre-foot annually for groundwater used for
 12-41 agricultural purposes; or

12-42 (2) 30 cents per thousand gallons annually for
 12-43 groundwater used for nonagricultural purposes.

12-44 (c) Notwithstanding any provision of general law or this
 12-45 chapter to the contrary, if any, the district may assess a
 12-46 production fee under this section for groundwater produced from a
 12-47 well or class of wells exempt from permitting under Section 36.117,
 12-48 Water Code, except for a well exempt from permitting under Section
 12-49 36.117(b)(1). A production fee assessed by the district under this
 12-50 subsection must be based on the amount of groundwater actually
 12-51 withdrawn from the well and may not exceed the amount established by
 12-52 the district for permitted uses under Subsection (b)(2) of this
 12-53 section.

12-54 (d) Notwithstanding Section 36.1071(f), Water Code, the
 12-55 district by rule, resolution, or order before the adoption of its
 12-56 management plan may:

12-57 (1) establish, assess, and enforce the collection of
 12-58 production fees under this section; and

12-59 (2) establish and enforce metering and reporting
 12-60 requirements, except for a well exempt from permitting under
 12-61 Section 36.117(b)(1), Water Code.

12-62 (e) The district by rule may establish a temporary or
 12-63 permanent discounted fee rate for persons who prepay production
 12-64 fees to the district under this section on or before the dates
 12-65 established by district rule.

12-66 SECTION 2.03. (a) The legal notice of the intention to
 12-67 introduce this article of this Act, setting forth the general
 12-68 substance of this article, has been published as provided by law,
 12-69 and the notice and a copy of this article have been furnished to all

13-1 persons, agencies, officials, or entities to which they are
13-2 required to be furnished under Section 59, Article XVI, Texas
13-3 Constitution, and Chapter 313, Government Code.

13-4 (b) The governor has submitted the notice and this article
13-5 to the Texas Commission on Environmental Quality.

13-6 (c) The Texas Commission on Environmental Quality has filed
13-7 its recommendations relating to this article with the governor,
13-8 lieutenant governor, and speaker of the house of representatives
13-9 within the required time.

13-10 (d) All requirements of the constitution and laws of this
13-11 state and the rules and procedures of the legislature with respect
13-12 to the notice, introduction, and passage of this article are
13-13 fulfilled and accomplished.

13-14 ARTICLE 3. EFFECTIVE DATES

13-15 SECTION 3.01. (a) Except as provided by Subsection (b) of
13-16 this section, this Act takes effect September 1, 2009.

13-17 (b) Sections 1.01 and 1.02 of this Act take effect
13-18 immediately if this Act receives a vote of two-thirds of all the
13-19 members elected to each house, as provided by Section 39, Article
13-20 III, Texas Constitution. If this Act does not receive the vote
13-21 necessary for immediate effect, Sections 1.01 and 1.02 of this Act
13-22 take effect September 1, 2009.

13-23

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