

By: Hegar
(Zerwas)

S.B. No. 1811

A BILL TO BE ENTITLED

AN ACT

relating to the Fort Bend Subsidence District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 8834.001, Special District Local Laws Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a), (4-a), (5-a), (5-b), (5-c), (7-a), and (8-a) to read as follows:

(1) "Agricultural crop":

(A) means food or fiber commodities that are grown for resale or commercial purposes and that are to be used for food, clothing, or animal feed; and

(B) includes nursery products and florist items that are in the possession of a nursery grower.

(1-a) "Beneficial use" means any use that is useful or beneficial to the user, including:

(A) an agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational use, or a use for pleasure purposes; or

(B) exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals.

(4-a) "Florist item" means a cut flower, a potted plant, a blooming plant, an inside foliage plant, a bedding plant, a corsage flower, cut foliage, a floral decoration, or live decorative material.

1 (5-a) "Nursery grower" means a person who grows in any
2 medium more than 50 percent of the nursery products or florist items
3 that the person sells or leases. A person grows a nursery product
4 or florist item if the person cultivates or propagates the product
5 or item by engaging in activities associated with the production or
6 multiplying of stock, including the development of new plants from
7 cuttings, grafts, plugs, or seedlings. The term does not include a
8 person who merely holds or maintains a nursery product or florist
9 item before sale or lease.

10 (5-b) "Nursery product" includes a tree, shrub, vine,
11 cutting, graft, scion, grass, bulb, or bud that is grown or kept
12 for, or capable of, propagation and distribution for sale or lease.

13 (5-c) "Regional water supplier" means a political
14 subdivision of this state that has:

15 (A) the authority to conserve, store, transport,
16 treat, distribute, sell, and deliver water to any person; and

17 (B) an approved groundwater reduction plan.

18 (7-a) "Water conservation" means a measure that seeks
19 to make a water supply available for alternative or future use. The
20 term includes best management practices, improved efficiency or
21 accountability, recycling, reuse, pollution prevention, and
22 reduction in consumption, loss, or waste.

23 (8-a) "Well owner" means a person who has an ownership
24 interest in a well, operates a well, owns land on which a well is
25 located, or owns the water withdrawn or to be withdrawn from a well.

26 SECTION 2. Section 8834.006, Special District Local Laws
27 Code, is amended to read as follows:

1 Sec. 8834.006. CERTAIN OTHER STATUTES INAPPLICABLE.

2 (a) Other laws governing the administration or operation of a
3 conservation and reclamation district created under Section 52,
4 Article III, or Section 59, Article XVI, Texas Constitution,
5 including Chapters 36 and 49, Water Code, do not apply to the
6 district.

7 (b) Notwithstanding Section 36.052, Water Code, this
8 chapter prevails over any other law in conflict or inconsistent
9 with this chapter.

10 SECTION 3. Section 8834.055, Special District Local Laws
11 Code, is amended by amending Subsections (a) and (c) and adding
12 Subsection (d) to read as follows:

13 (a) Each year, at the first meeting after the new directors
14 take office, the directors shall select a chair [~~president~~], a vice
15 chair [~~president~~], and a secretary.

16 (c) The chair [~~president~~] shall preside over meetings of the
17 board. If the chair [~~president~~] is not present, the vice chair
18 [~~president~~] shall preside.

19 (d) The secretary shall ensure that all records and books of
20 the district are properly kept and attest to the chair's signature
21 on all documents. The board may authorize another director, the
22 general manager, or any employee or contractor to execute documents
23 on behalf of the district and to certify the authenticity of any
24 record of the district.

25 SECTION 4. Section 8834.056, Special District Local Laws
26 Code, is amended to read as follows:

27 Sec. 8834.056. MEETINGS. (a) The board shall hold [~~one~~]

1 regular meetings [~~meeting each month~~] at a time set by the board.

2 (b) The board may hold a special meeting at the call of the
3 chair [~~president~~] or on the written request of at least three
4 directors.

5 SECTION 5. Subsection (b), Section 8834.057, Special
6 District Local Laws Code, is amended to read as follows:

7 (b) A meeting of a committee of the board is not subject to
8 Chapter 551, Government Code, if less than a quorum of the board is
9 present at the meeting.

10 SECTION 6. Subsection (a), Section 8834.104, Special
11 District Local Laws Code, is amended to read as follows:

12 (a) The [~~Before March 31 of each year, the~~] board shall hold
13 an annual [~~a~~] hearing to determine the effects during the preceding
14 calendar year of groundwater withdrawal on subsidence in the
15 district.

16 SECTION 7. Section 8834.115, Special District Local Laws
17 Code, is amended to read as follows:

18 Sec. 8834.115. NOTICE OF HEARINGS. (a) Not later than the
19 10th day before the date set for a hearing other than a permit
20 application hearing, the district shall deliver or mail notice of
21 the hearing to:

22 (1) each county, regional water supplier, and
23 municipal government in the district; and

24 (2) each person that the board considers to have an
25 interest in the subject matter of the hearing.

26 (b) Not later than the 10th day before the date set for a
27 hearing, the district shall:

1 (1) publish notice of the hearing once in a newspaper
2 of general circulation in each county in the district; and

3 (2) provide a copy of the [post] notice of the hearing
4 to the county clerk to be posted at the county courthouse of each
5 county in the district in the place where notices are usually
6 posted.

7 SECTION 8. Subchapter D, Chapter 8834, Special District
8 Local Laws Code, is amended by adding Section 8834.158 to read as
9 follows:

10 Sec. 8834.158. INVESTMENT OFFICER. (a) Notwithstanding
11 Section 2256.005(f), Government Code, the board may contract with a
12 person to act as investment officer of the district.

13 (b) The investment officer shall:

14 (1) not later than the first anniversary of the date
15 the officer takes office or assumes the officer's duties, attend a
16 training session of at least six hours of instruction relating to
17 investment responsibilities under Chapter 2256, Government Code;
18 and

19 (2) attend at least four hours of additional
20 investment training within each two-year period after the first
21 year.

22 (c) Training under this section must be from an independent
23 source approved by:

24 (1) the board; or

25 (2) a designated investment committee advising the
26 investment officer.

27 (d) Training under this section must include education in

1 investment controls, security risks, strategy risks, market risks,
2 diversification of investment portfolio, and compliance with
3 Chapter 2256, Government Code.

4 SECTION 9. Section 8834.201, Special District Local Laws
5 Code, is amended to read as follows:

6 Sec. 8834.201. GROUNDWATER WITHDRAWALS SUBJECT TO BOARD
7 RULE. (a) Groundwater withdrawals governed by this chapter,
8 including withdrawals of injected water, are subject to reasonable
9 board rules and orders.

10 (b) The board may issue permits to drill new wells and by
11 rule may provide exemptions from the permit requirements. The
12 district shall grant a permit to drill and operate a new well inside
13 a platted subdivision if water service from a retail public utility
14 is not available to the lot where the well is to be located.

15 (c) In this section, "retail public utility" has the meaning
16 assigned by Section 13.002, Water Code.

17 SECTION 10. Section 8834.202, Special District Local Laws
18 Code, is amended to read as follows:

19 Sec. 8834.202. CERTAIN GROUNDWATER USES ~~[WELLS]~~ EXEMPT.
20 The permit requirements of this ~~[This]~~ chapter do ~~[does]~~ not apply
21 to:

- 22 (1) a well regulated under Chapter 27, Water Code;
- 23 (2) a well that:
 - 24 (A) has a casing with an inside diameter of not
 - 25 more than five inches; and
 - 26 (B) serves only a single-family dwelling; or
- 27 (3) a shallow well that:

1 (A) is not used to provide water for:

- 2 (i) human consumption;
- 3 (ii) agriculture;
- 4 (iii) manufacturing or industry; or
- 5 (iv) water injection; and

6 (B) withdraws water solely:

7 (i) to prevent hazardous sand boils,
8 dewater surface construction sites, or relieve hydrostatic uplift
9 on permanent structures;

10 (ii) for groundwater quality analysis and
11 for monitoring migration of subsurface contaminants or pollution;
12 or

13 (iii) for recovery of contamination or
14 pollution.

15 SECTION 11. Subsections (a) and (c), Section 8834.206,
16 Special District Local Laws Code, are amended to read as follows:

17 (a) A well [~~The~~] owner [~~of a well located in the district~~]
18 must obtain a permit from the board before:

- 19 (1) drilling, equipping, or completing the well;
- 20 (2) substantially altering the size of the well or a
21 well pump; or
- 22 (3) operating the well.

23 (c) A well [~~An~~] owner [~~or operator~~] commits a violation if
24 the well owner [~~or operator~~] does not obtain a permit as required by
25 Subsection (a). A violation occurs on the first day the drilling,
26 equipping, completing, altering, or operation begins. Each day
27 that a violation continues is a separate violation.

1 SECTION 12. Subsection (c), Section 8834.209, Special
2 District Local Laws Code, is amended to read as follows:

3 (c) The board shall issue a permit to an applicant if the
4 board finds on sufficient evidence that:

5 (1) there is no other adequate and available
6 substitute or supplemental source of alternative [~~surface~~] water
7 supplies at prices competitive with the prices charged by suppliers
8 of alternative [~~surface~~] water supplies in the district; and

9 (2) compliance with any provision of this chapter or
10 any district rule will result in an arbitrary taking of property or
11 in the practical closing and elimination of any lawful business,
12 occupation, or activity without sufficient corresponding benefit
13 or advantage to the public.

14 SECTION 13. Section 8834.214, Special District Local Laws
15 Code, is amended to read as follows:

16 Sec. 8834.214. ANNUAL REPORT. (a) Before January 31 each
17 year, a well owner who is required to hold [~~holds~~] a permit under
18 this chapter shall submit to the board a report stating:

- 19 (1) the well owner's name;
- 20 (2) the location of the well;
- 21 (3) the total amount of groundwater withdrawn from the
22 well during the preceding calendar year [~~12-month period~~];
- 23 (4) the total amount of groundwater withdrawn from the
24 well during each month of the preceding calendar year [~~12-month~~
25 ~~period~~];
- 26 (5) the purpose for which the groundwater was used;
- 27 and

1 (6) any other information required by the board that
2 the board considers necessary for the board to control and prevent
3 subsidence in the district.

4 (b) A well owner whose well is aggregated with other wells
5 permitted and managed by a regional water supplier shall file the
6 report required by Subsection (a) with the regional water supplier
7 instead of the district. A regional water supplier shall submit to
8 the board the report required by Subsection (a) for all wells owned,
9 managed, or permitted by that supplier not later than March 31 of
10 each year.

11 SECTION 14. An investment officer for the Fort Bend
12 Subsidence District who holds that office on the effective date of
13 this Act must attend the training required by Subdivision (1),
14 Subsection (b), Section 8834.158, Special District Local Laws Code,
15 as added by this Act, not later than the first anniversary of the
16 effective date of this Act unless that person has already taken the
17 training during the previous calendar year.

18 SECTION 15. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2013.