A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District; providing for civil penalties.

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

SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act is to provide for the regulation of the withdrawal of groundwater within the district created by this Act to prevent subsidence that contributes to or precipitates flooding, inundation, or overflow of areas within the district, including rising waters resulting from storms or hurricanes.

(b) It is the intent of the legislature that the district created by this Act shall administer and enforce the terms of this Act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of this Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Person" includes a corporation, individual, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(2) "District" means the Fort Bend Subsidence District.

(3) "Board" means the board of directors of the Fort
Bend Subsidence District.

(4) "Groundwater" means water existing below the earth's surface within the district, but does not include water produced with oil in the production of oil and gas.

(5) "Well" means a facility, device, or method used to withdraw groundwater.

(6) "Withdraw" means the act of extracting groundwater by pumping or some other method.

(7) "Drill" means drilling, equipping, or completing wells or substantially altering the size of wells or well pumps.

(8) "Subsidence" means the lowering in elevation of the surface of land by the withdrawal of groundwater.

(9) "Commission" means the Texas Water Commission.

SECTION 3. CREATION. Under Article XVI, Section 59, of the Texas Constitution, a conservation and reclamation district is created to be known as the Fort Bend Subsidence District. The district is a governmental agency, a political subdivision of the state, and a body politic and corporate.

SECTION 4. BOUNDARIES. (a) The district includes all of the territory within Fort Bend County.

(b) An adjoining county may be added to the district on application of the commissioners court of the adjoining county and compliance with the applicable provisions of Sections 55.730-55.744, Water Code.

(c) The proposition on the ballots for an election to add an adjoining county to the district shall be printed to permit voting for or against the proposition: "Addition of _______ County to
the Fort Bend Subsidence District."

(d) A county added to the district under this section is subject to the jurisdiction of the board and this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 13 directors.

(b) One director from each of the following cities in Fort Bend County shall be appointed by the mayor of the respective city:

(1) Houston;
(2) Missouri City;
(3) Stafford;
(4) Sugar Land;
(5) Rosenberg; and
(6) Richmond.

(c) The Commissioners Court of Fort Bend County shall appoint two directors who represent agricultural interests and live in an unincorporated area, two directors who represent industrial interests, and two directors who represent business interests.

(d) One director shall be appointed by the mayors of the incorporated cities within the county not listed in Subsection (b) of this section.

(e) If an adjoining county is added to the district, four members shall be added to the board. Two members shall be chosen by the commissioners court of the county added to the district. One member each shall be chosen by the mayors of the two cities in the county added to the district that have the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered terms of office.
(f) All directors must be residents of and qualified voters in the district.

(g) The county judge of Fort Bend County shall set a date, time, and place for a meeting of the persons designated in Subsections (b), (c), and (d) of this section to choose the initial directors. The county judge shall choose a date not later than the 30th day after the effective date of this Act. The county judge shall mail notices of the meeting to the persons designated to choose the directors. The county judge shall appoint a person to preside at the meeting. The directors chosen at the meeting shall assume their positions not later than the fifth day after the date of the meeting.

(h) Selection of subsequent directors shall be made on the second Monday in January at 11 a.m. in the district's main office. Not later than the 20th day before the date of the meeting, the district shall mail notice of the meeting to the persons designated in Subsections (b), (c), (d), and (e) of this section to choose directors.

(i) The terms of office for the initial directors shall be as follows:

(1) five members chosen under Subsection (b) of this section and four members chosen under Subsection (c) of this section shall serve for terms expiring January 31, 1991; and

(2) one member chosen under Subsection (b) of this section, two members chosen under Subsection (c) of this section, and the member chosen under Subsection (d) of this section shall serve for terms expiring January 31, 1990.
(j) Except as provided by Subsection (i) of this section, members of the board shall serve for terms of two years.

(k) At the time the county judge of Fort Bend County sets the meeting required by Subsection (g) of this section, the county judge shall set the date, time, and place for the initial meeting of the board. Not later than the 20th day before the date of the initial meeting of the board, the county judge shall mail notices of the meeting to the initial directors.

(l) At the initial meeting of the board and each year at the first meeting after new directors take office, the directors shall select a chairman, a vice-chairman, and a secretary. The chairman, vice-chairman, and secretary shall serve at the pleasure of the board and may be removed and replaced by a majority of the board at any time.

(m) The chairman shall preside over meetings of the board. If the chairman is not present, the vice-chairman shall preside.

(n) Each director is entitled to receive $50 a day for each day he is engaged in the exercise of his duties under this Act and necessary travel and other expenses incurred in the exercise of his duties under this Act. A member of the board may not receive compensation and travel and other expenses for more than 120 days in any one calendar year.

(o) If a vacancy occurs on the board, the person or persons designated in Subsection (b), (c), (d), or (e) of this section to appoint a director for the position that is vacated shall appoint a director to serve the unexpired term.

(p) Each director shall take the oath of office prescribed
by law for county commissioners and shall execute a bond in the
amount of $5,000, payable to the district, conditioned on the
faithful performance of his duties. The district shall pay for the
bond.

(q) A majority of the directors constitute a quorum for
transaction of business of the district. An official act of the
board is not valid without the affirmative vote of a majority of
the directors.

(r) The board shall hold one regular meeting each month at a
time set by the board. The board may hold special meetings at the
call of the chairman or on the written request of at least three
directors.

SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board
shall administer this Act as provided by Section 1 of this Act.

(b) Withdrawals of groundwater covered by this Act are
subject to reasonable rules, regulations, and orders adopted by the
board.

(c) In adopting rules, regulations, and orders, the board
shall consider the following factors:

(1) availability of surface water;

(2) economic impact on persons and the community;

(3) degree and effect of subsidence on the surface of
the land; and

(4) differing topographical and geophysical
characteristics of the land.

(d) The board has all other powers necessary or convenient
to carry out its responsibilities and achieve the purpose of this
Act.

SECTION 7. GENERAL MANAGER. (a) The board shall employ a
general manager who shall be the chief administrative officer of
the district. The board may delegate to the general manager the
authority to manage and operate the affairs of the district subject
only to orders of the board.

(b) The duties of the general manager include:

(1) administration of the orders of the board;

(2) coordination with state, federal, and local
agencies;

(3) supervision of the development of plans and
programs of the district;

(4) preparation and submission of the annual budget to
the board; and

(5) other duties assigned by the board.

(c) The general manager shall execute a bond in an amount
determined by the board, payable to the district, conditioned on
the faithful performance of his duties. The district shall pay for
the bond.

(d) The district may contract with any person to perform the
duties of general manager.

SECTION 8. EMPLOYEES. (a) The board shall employ personnel
necessary for the proper handling of the business and operation of
the district and may employ attorneys, bookkeepers, engineers, and
other expert and specialized personnel that are considered
necessary. The board shall determine the compensation to be paid
by the district to the employees.
(b) The board shall determine the term of office of and the compensation to be paid to the general manager. The board may discharge the general manager by a majority vote. The board may discharge employees of the district.

(c) The board shall require an employee who collects, pays, or handles funds of the district to furnish good and sufficient bond, payable to the district, for a sufficient amount to safeguard the district. The bond shall be conditioned on the faithful performance of the employee's duties and on accounting for all funds and property of the district under the employee's control. The district shall pay for the bond.

SECTION 9. DISTRICT OFFICE. The board shall maintain its principal office for conducting the business of the district. The office must be located inside the district.

SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district shall keep a true and complete account of the board's meetings and proceedings and shall preserve the board's minutes, contracts, records, notices, accounts, and receipts in a fireproof vault or safe. The board's minutes, contracts, records, notices, accounts, and receipts are the property of the district and are subject to public inspection.

SECTION 11. SUITS. The district may sue and be sued in the courts of this state in the name of the district by and through the board. If requested by the district, the attorney general shall represent the district in the district and appellate courts of this state and in the courts of the United States. The board, in its sole discretion, may employ attorneys to represent the district in
the district and appellate courts of this state and in the courts
of the United States. All courts shall take judicial notice of the
creation of the district and of its boundaries.

SECTION 12. SEAL. The board shall adopt a seal.

SECTION 13. RULES AND REGULATIONS. (a) After notice and
hearing under Section 14 of this Act, the board shall adopt and
enforce rules and regulations that are designed to expeditiously
and effectively accomplish the provisions and purposes of this Act,
including rules governing procedure before the board.

(b) The board shall compile its rules and regulations in a
book and make the book available for use and inspection at the
district's principal office. The district shall provide copies of
its rules and regulations on payment of the cost of reproduction.

SECTION 14. HEARINGS. (a) At regular meetings of the
board, the board shall set the dates, times, and locations for
hearings to be held under this Act.

(b) Not later than the 20th day before the date set for a
hearing, the district shall deliver or mail notice of the hearing
under this section to each county and municipal government within
the district and to each person that the board believes has an
interest in the subject matter to be dealt with at the hearing.

(c) Not later than the 20th day before the date set for a
hearing, the district shall publish notice of the hearing under
this section once in a newspaper of general circulation in each
county within the district.

(d) Not later than the 20th day before the date set for a
hearing, the district shall post the notice of the hearing under
this section at the county courthouse of each county within the
district in the place where notices are usually posted.

(e) Any person who desires to appear at a hearing and
present testimony, evidence, exhibits, or other information may do
so in person, by counsel, or both.

(f) The board may hold hearings at any location within the
district.

(g) The board may recess a hearing from day to day.

(h) The board may use hearing examiners to hear any subject
set for the hearing. Procedures for use of hearing examiners shall
be provided in the rules and regulations.

SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND
SUBPOENAS. The board may subpoena a person to testify if the
person's testimony is necessary to carry out the powers, duties,
and functions of the board under this Act. The board may
administer oaths to persons who testify before the board. The
board may subpoena documents if the documents are necessary to
carry out the powers, duties, and functions of the board under this
Act. On application of the board, a district court shall enforce
the subpoena in the same manner as a subpoena issued by the court.

SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this
Act, the board shall formulate a plan to control and prevent
subsidence within the district. The plan shall accomplish this
purpose by the regulation of groundwater withdrawals to maintain
sufficient artesian pressure to control and prevent subsidence.

(b) The plan shall specify, in as much detail as
practicable, the acts, procedures, performance, and avoidance that
are necessary to carry out the purposes of this Act.

(c) When formulating the plan, the board shall compile and consider:

(1) a list of wells in the district that will be subject to regulation under this Act;

(2) an accurate estimate of groundwater production from each well or proposed well in the district;

(3) an accurate estimate of the amount of groundwater that may be produced from each well and each area in the district without causing drawdown of the water table and reduction of artesian pressure that will lead to subsidence within the district;

(4) an accurate estimate of the current and future water needs of each well owner in the district;

(5) an accurate estimate of the groundwater production capacity of each well in the district;

(6) a list of all available sources of water in the district other than groundwater;

(7) the purpose for which the water is currently used and for which it is proposed to be used in the future;

(8) information relating to formulation of a permit system; and

(9) other information necessary to carry out the management of groundwater in the district and to effectively and expeditiously accomplish the purposes of this Act.

(d) The plan shall be formulated not later than 12 months after the effective date of this Act.

(e) Not later than the 60th day after the date the plan is
formulated, the board shall review and adopt the plan.

(f) Before the plan is adopted, the board shall hold a hearing under Section 14 of this Act to consider the proposed plan.

(g) After the hearing, the board shall make any changes it considers necessary based on evidence and material presented at the hearing and shall adopt the plan.

(h) The plan adopted under this section may be amended or repealed. A new plan may be adopted in the manner provided in this section for the adoption of the original plan. A plan, once adopted, shall remain in effect until the adoption of a new plan.

SECTION 17. TEMPORARY REGULATION. During the period that the board is formulating and adopting the plan under Section 16 of this Act, the board shall adopt temporary rules and regulations relating to the withdrawal of groundwater that are necessary to control subsidence.

SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well located in the district must obtain a permit from the board to withdraw groundwater.

(b) Owners of wells operating or being drilled on the effective date of this Act must apply for a permit before January 1, 1990, and may continue to operate the well without a permit until the application for a permit for the well is acted on by the board.

(c) A permit issued under this Act is valid for a term of one year from the date it is issued unless a longer or shorter term is specified by the board. The board may issue a permit for a term not to exceed five years in order to aid the district in the
effective and expeditious performance of its duties if issuance of
the permit does not impair the ability of the district to control
and prevent subsidence within the district.

(d) A permit may be revoked, suspended, modified, or amended
after notice and public hearing under Section 14 of this Act
whenever reasonably necessary to accomplish the purposes of this
Act.

(e) Permits may be renewed in the same manner as permits are
issued.

(f) To obtain a permit, a person must submit an application
and an application fee to the board. The application must state:

(1) the person's name;
(2) the person's address;
(3) the location and wellhead elevation of the well or
proposed well;
(4) the amount of water being produced or proposed to
be produced; and
(5) any other information required by the board as
necessary for the board to control and prevent subsidence in the
district.

(g) The board shall use the application fee to process
applications.

SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board
shall hold a hearing on each application.

(b) Not later than the 20th day before the date set for the
hearing, the board shall notify the applicant by certified mail,
return receipt requested, of the date, time, and location of the
(c) Except as provided by this section, the hearing shall be conducted and notice of hearing given under Section 14 of this Act.

(d) The board may consider as many applications for permits as it considers necessary at a hearing.

SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the 35th day after the date of the hearing, the board shall decide whether or not to issue a permit and shall formulate the terms of the permit, if issued.

(b) In deciding whether or not to issue a permit and in setting the terms of the permit, the board shall consider:

(1) the purpose of this Act;

(2) the district plan;

(3) the quality, quantity, and availability of surface water at prices competitive with those charged by suppliers of surface water within the district; and

(4) the economic impact on the applicant of granting or denying the permit or of the terms prescribed by a permit in relation to the effect on subsidence that would result.

(c) The board shall grant a permit to an applicant whenever the board finds on sufficient evidence that:

(1) there is no other adequate and available substitute or supplemental source of surface water at prices competitive with those charged by suppliers of surface water within the district; and

(2) compliance with any provision of this Act, or any rule or regulation of the district, will result in an arbitrary
taking of property or in the practical closing and elimination of any lawful business, occupation, or activity, without sufficient corresponding benefit or advantage to the people.

(d) If the board decides to issue the permit, the permit must state the terms prescribed by the board.

(e) The permit must include the following:

(1) the name and address of the permittee;

(2) the location of the well;

(3) the date the permit begins and the date the permit expires;

(4) conditions and restrictions placed on the withdrawal of groundwater;

(5) adoption of water conservation measures for the purpose of preventing waste of groundwater, including educational programs; and

(6) any other terms and conditions necessary to control and prevent subsidence.

SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under this Act is not transferable unless the permittee and new owner notify the district by certified mail, return receipt requested, of the transfer of ownership of the well and provide the name and address of the new owner. On receipt of that information, the district shall issue an amended permit with the new owner of the well as permittee. The remaining terms of the permit shall remain unchanged.

SECTION 22. ANNUAL REPORTS. Before January 31 of each year, each owner of a well who holds a permit under this Act shall submit
a report to the board stating the following:

(1) the person's name;
(2) the location of the well;
(3) the total amount of groundwater produced by the well during the immediately preceding 12-month period;
(4) the total amount of groundwater produced by the well during each separate month of the immediately preceding 12-month period;
(5) the purpose for which the groundwater was used;
(6) the date the permit expires; and
(7) any other information required by the board as necessary for the board to control and prevent subsidence within the district.

SECTION 23. BOARD INVESTIGATIONS. At least once each year and at any other time that the board considers necessary, the board may have its staff make a complete study of the groundwater situation within the district and determine the water level, rates of withdrawal, amounts of withdrawal, and other information relating to the withdrawal of groundwater that may affect the subsidence of land within the district.

SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.
(a) Before March 31 of each year, the board shall hold a hearing under Section 14 of this Act to determine the effects during the preceding calendar year of groundwater withdrawal on the subsidence of land within the district.
(b) At the hearing, the board shall consider the annual reports submitted under Section 22 of this Act and the
investigation made under Section 23 of this Act in addition to
information represented by persons appearing before the board.

(c) After the hearing, the board shall consider all the
information presented to it and shall determine the groundwater
withdrawal in the district during the preceding calendar year and
shall make findings of the effects of groundwater withdrawal during
that year on the subsidence of land within the district. A report
of the board's findings and determinations shall be made available
for examination by any interested person.

SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
order to minimize as far as practicable the drawdown of the water
table and reduction of artesian pressure and to control and prevent
subsidence, the board may provide for the spacing of wells and
regulate the production of groundwater from the wells, taking into
consideration any relevant factors, including the economic impact
on well owners and the resulting effect on subsidence.

(b) Before issuing any rule, regulation, or order under this
section, the board shall set a hearing on the proposed rule,
regulation, or order and issue notice of the hearing. Notice must
be given and hearings conducted in the manner provided in Section
14 of this Act.

SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
adopt orders after notice and hearing under Section 14 of this Act
requiring water-metering devices to be placed on wells.

SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
and other investigations necessary to the implementation of this
Act, the board and its agents and employees are entitled to access
to all property within the district.

(b) Before entering property for the purposes stated in Subsection (a) of this section, the person seeking access shall give notice to the owner of the property in the manner provided by the rules and regulations of the district and shall present proper credentials.

(c) The board, and its agents and employees who enter private property, shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.

SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The district may use subsidence compaction monitors, water level observation wells, and other materials and equipment to determine the amount of groundwater that may be produced while allowing the rebound and stabilization of groundwater to a level that will halt subsidence.

SECTION 29. RESEARCH AND STUDIES. The board may conduct studies and research that it considers necessary to implement this Act. The board may use the services of geologists, hydrologists, registered professional engineers, or other expert personnel to accomplish the purposes of this section.

SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER GOVERNMENTAL ENTITIES. The board may cooperate with and request the assistance of the Texas Water Development Board, the commission, the United States Geological Survey, local governments, and other agencies of the United States and the State of Texas in implementing this Act.
SECTION 31. CONTRACTS. The board may enter into contracts with any person to carry out this Act.

SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT.
(a) A person who is adversely affected by a rule, regulation, order, or other official action of the board may appeal to a district court in any county in the district.

(b) For the purposes of this section, "a person who is adversely affected" includes a person residing in or owning real property in the district whose residence or real property is subsiding. An appeal under this section must be filed not later than the 45th day after the date the rule, regulation, order, or other official action appealed from is promulgated.

(c) On written request of a person who is adversely affected, the board shall make written findings and conclusions with respect to a rule, regulation, order, or other official action of the district. Not later than the 35th day after the request was made, the board shall provide a certified copy of the findings and conclusions to the person who made the request.

(d) In appeals taken under this section, the substantial evidence rule shall be used to determine the legal propriety of a rule, regulation, order, or other action of the board.

SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE COMMISSION. (a) As an alternative to the appeal provided by Section 32 of this Act, a person who is granted a permit authorizing withdrawal of groundwater in an amount less than requested by that person may appeal the board's final decision to the commission. The appeal shall be filed not later than the 60th
day after the date of the final order of the board.

(b) On written request of the person proposing to appeal an
order under Subsection (a) of this section, the board shall make
written findings and conclusions with respect to the order and
shall provide certified copies of the findings and conclusions to
the person making the request not later than the 35th day after the
date on which the written request is submitted to the board.

(c) The effect of a board order is stayed until the decision
of the commission in an appeal under this section is final.

(d) The review on appeal to the commission under this
section is governed by the substantial evidence rule as provided by
Section 19(e), Administrative Procedure and Texas Register Act
(Article 6252-13a, Vernon's Texas Civil Statutes).

(e) The commission may adopt necessary rules to carry out
the provisions of this section.

(f) An appeal from a final decision of the commission is to
a district court in Travis County and is governed by the
substantial evidence rule. Any party to the proceedings before the
commission may appeal a decision of the district court in the
manner provided for other civil actions, but a party appealing a
decision of a district court is not required to provide an appeal
bond.

(g) Under this section, the commission may adopt and assess
reasonable and necessary fees adequate to recover the costs of the
commission in administering this section.

SECTION 34. PERMIT FEE. (a) At the time a permit is issued
or renewed, the board shall collect from the permittee a permit
fee, established by schedule, based on the term of the permit and
the maximum amount of groundwater authorized by the board to be
withdrawn annually from the well.

(b) The fee schedule shall be determined by the board after
a hearing under Section 14 of this Act.

(c) The board shall use the funds obtained from permit fees
to cover the costs of issuing permits and performing other
functions under this Act.

SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On
behalf of the district, the board may:

(1) purchase, lease, own, convey, and dispose of
property both inside and outside the district necessary or
convenient to the exercise of the powers, duties, and functions of
the board under this Act;

(2) accept grants, gifts, and devises of property;

(3) construct, purchase, lease, or acquire in some
other manner any material or property necessary to carry out this
Act; and

(4) accept gifts, grants, loans, or other
distributions of money.

SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and
rights of the owner of land and his lessees and assigns in
groundwater are recognized and nothing in this Act shall be
construed as depriving or divesting the owner or his lessees and
assigns of the ownership or rights, subject to rules and
regulations and orders and other official actions of the district.

SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and
accountant or a firm of independent certified public accountants of recognized integrity and ability. The district shall pay for the audit.

(b) The board shall deliver a copy of the audit to the commissioners court of each county in the district. The board shall keep one copy of the audit at the district office, open to inspection by any interested person during normal office hours.

SECTION 42. DEPOSITORY BANKS. (a) The board shall designate one or more banks within the district to serve as depository for the funds of the district. Except as provided by Subsection (b) of this section, all funds of the district shall be deposited in a depository bank.

(b) To the extent provided in a trust indenture, bond proceeds and funds pledged to pay bonds may be deposited with the trustee bank named in the trust indenture and shall be remitted to the bank of payment for the payment of the principal of and interest on the bonds.

(c) To the extent that funds in a depository bank or a trustee bank are not invested or insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

(d) Before designating a depository bank, the board shall issue a notice stating the time and place the board will meet for that purpose and shall invite the banks in the district to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. The board shall publish the notice once in a newspaper of general circulation in
the district or mail a copy of the notice to each bank in the
district.

(e) The board shall consider the management and condition of
the banks that apply and shall designate as depositories the bank
or banks that offer the most favorable terms and conditions for
handling of the funds of the district and that the board finds have
proper management and are in condition to warrant handling of
district funds.

(f) Membership on the board of an officer or director of a
bank does not disqualify the bank from being designated as
depository.

(g) If no applications are received before the meeting, the
board shall designate a bank or banks within or outside the
district on terms and conditions it finds advantageous to the
district.

SECTION 43. PENALTIES. (a) If a person has violated, is
violating, or is threatening to violate a provision of this Act or
a rule, regulation, permit, or other order of the district, the
district may bring a civil action in a district court within the
district for an injunction to restrain the person from continuing
the violation or the threat of violation, for a civil penalty of
not less than $50 nor more than $5,000 for each violation and for
each day of violation, or for both injunctive relief and civil
penalty.

(b) At the request of the district, or the general manager
authorized by the board, the attorney general shall institute the
action. However, the district in its sole discretion may employ
LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES
STATE OF TEXAS

TO: The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Water Commission copies of House Bill No. 2819, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Water Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

MAR 30 1989
Date transmitted to Governor's Office

Betty Murray, Chief Clerk
House of Representatives

TO: Texas Water Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of House Bill No. 2819, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

3/31/89
Date transmitted to Texas Water Commission

William P. Clements, Jr.
Governor

TO: The Honorable Gibson D. "Gib" Lewis
Speaker of the House

The Honorable William P. Hobby
President of the Senate

The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Water Commission on House Bill No. , in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.

Allen Bainke
Executive Director
PUBLISHER'S AFFIDAVIT

THE STATE OF TEXAS

County of Fort Bend,

On this the 10 day of March, A. D. 1989, personally appeared before the undersigned, a Notary Public in and for said county and state, Clyde C. King, Jr. Associate Publisher of The Herald-Examiner, a newspaper published at Rosenberg, County of Fort Bend, State of Texas, who, being by me duly sworn, on oath, states that the advertisement, a true copy of which is hereto annexed, was published in (SEAL)

said newspaper in one issue(s) thereof on the following date(s):

February 10

A. D. 1989

scribed and sworn to before me, this the 10 day of March, A. D. 1989.

Notary Public in and for Fort Bend County,

Texas

Lori Bobbitt
My Commission expires 3/18/89
April 19, 1989

The Honorable William P. Clements, Jr.
Governor of Texas

The Honorable William P. Hobby
Lieutenant Governor and President of the Senate

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, §52 and Article XVI, §59(d), Texas Constitution: Fort Bend Subsidence District

Dear Governor Clements:

The following attachment is submitted in response to the above-referenced constitutional requirements. Items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

[Signature]
Allen P. Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman, House Natural Resources Committee
Speaker of the House Gib Lewis, House of Representatives
Senator H. Tati Santiesteban, Chairman, Senate Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives
The Honorable Gib Lewis  
Speaker of the House of Representatives  
P.O. Box 2910  
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 2819) – Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

[Signature]

Allen Beinke  
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives  
Ms. Betty King, Secretary of the Senate  
Representative Terral Smith, Chairman,  
House Natural Resources Committee  
Senator Bill Sims, State Senate  
Representative Jim Tallas, House of Representatives
Water Development Policy Impact Statements for House Bill 2819 (H.B. 2819) relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend Subsidence District follow.

Wells located within the limits of this proposed district which covers all of Fort Bend County, utilize the Gulf Coast aquifer. During the period from 1975-1985, excessive water-level declines occurred primarily in the southeastern one-half of the county, with up to 40 feet of water-table decline taking place. During this same time, between 50-100 feet of artesian decline also occurred in the north-central part of the county. Excessive pumpage with its associated water-level declines, triggers land-surface subsidence. This is hydrogeologic justification for the district. The Harris-Galveston Coastal Subsidence District which encompasses all of Harris and Galveston Counties, adjoins the proposed district on the northeast. Fort Bend County lies within a state designated critical area.

H.B. 2819 provides for the regulation of the withdrawal of groundwater within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall exercise its rights, powers, and duties in a manner which will effectively and expeditiously accomplish the purpose of the act. The district is proposed to be created under Article XVI, Section 59, of the Texas Constitution and as a conservation and reclamation district. Specific impact statements related to required headings follow:

1) Population projections - The proposed District is coterminous with the boundaries of Fort Bend County. The Board's current projected
population for Fort Bend County indicates an anticipated increase in population ranging from 154,831 to 208,720 over the next 20 years.

2) District finances - The district shall collect from a permittee (owner of a well other than specific types which are excluded) a permit fee, established by a schedule set by the board following a hearing, based on the term of the permit (one to five years) and the maximum amount of ground water authorized to be withdrawn annually from the well. Permit fee funds obtained shall be used to cover the costs of issuing permits and performing other district functions. The district may also accept grants, gifts, devises of property (which it may dispose of), and other distributions of money.

3) Board of directors & powers - This proposed district is to be governed by a board of 13 directors. Six of these are to be composed of one director each from the cities of Houston, Missouri City, Stafford, Sugar Land, Rosenberg, and Richmond who are to be appointed by the mayor of the respective cities. Five of these shall serve terms expiring January 31, 1991. One member's term shall expire January 31, 1990. Two directors representing agricultural interests who live in an unincorporated area, and four directors (two each) will represent industrial and business interests. Four of the six shall serve terms expiring January 31, 1991. The terms of the other two shall expire January 31, 1990. Additionally, one director will be appointed by all of the mayors of the other incorporated cities of the county. Except as provided for the one city member and two agricultural, industrial, or business members whose terms expire in January 31, 1989, the rest shall serve terms of two years. In the event an adjoining county is added to the district, four additional members will be added to the board. Two of these members will be chosen by the commissioners court of the affected county and one member each will be chosen by the mayors of the two cities of the affected county having the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered two year terms.
Since the bill creates a ground-water subsidence district under Article XVI, Section 59 of the Texas Constitution, and powers relating to Chapters 50, 51, and 52 of the Texas Water Code are not included, its powers are limited to those specifically set out in the bill. The bill requires that the board shall administer this act to provide for the regulation of the withdrawal of ground water within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall administer and enforce the terms of this act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of the act. Specifically, the district shall control the withdrawals of ground water with reasonable rules, regulations, and orders. These shall consider: 1) availability of surface water, 2) the economic impact on the community, 3) the degree and effect of subsidence on the surface of the land, 4) differing topographical and geophysical characteristics of the land, and 5) the board has all other powers necessary or convenient to carry out its responsibilities and achieve the act's purposes.

The district may sue and be sued in the courts in the name of the district by and through the board. The board may employ attorneys to represent the district in district and appellate courts of the state and in the courts of the United States. The district may hold hearings to receive testimony, evidence, exhibits, and other information. The board has the power to subpoena a person or documents and to enforce the subpoena. It also has the power to administer oaths necessary to carry out the powers, duties, and functions of the board.

The board is empowered to formulate a plan within 12 months to control and prevent subsidence; adopt temporary rules during plan development; require well permits for one to five years and revoke, suspend, or modify these permits; to conduct required hearings; prepare annual reports relating to the number of wells and their respective pumpage; make annual studies of the ground-water situation including determination of the effects of ground-water withdrawal on subsidence;
regulate well spacing and pumpage; require metering devices; access property to conduct investigations; use monitoring devices to determine water-level declines and land-surface compaction; to cooperate with and obtain assistance from other governmental entities; to conduct research and studies; to enter into contracts with any person; disburse funds; and to assess penalties for violations of district regulations.

The district's powers do not apply to surface water and it may not sell or distribute surface or ground water. The act also recognizes private ownership of ground water. Additionally, the district may not control certain types of wells specifically set out in the bill. These include wells with a casing having an inside diameter of five inches or less that serve a single-family dwelling which have a negligible effect on subsidence.

4) **Effect on Texas Water Development Board's water plan** - The Board finds that creation of a proposed subsidence control district is consistent with the State Water Plan objective of local control of groundwater to prevent the effects of subsidence in southeastern Texas. The Board has provided regional water supply planning grant assistance to improve the management of groundwater and promote conversion to surface water supplies in most of Fort Bend County, and the results of the Board-funded planning projects indicate a need to better manage groundwater resources in the area.

5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Sections 50.001 through 50.106, Texas Water Code.

6) **Eminent domain power** - This district does not have this power.
7) **Exclusion of land from district** - This bill contains no specific provisions for the exclusion of land from the district; however, Section 4 of the bill sets out the procedure for adding adjoining counties to the district.

8) **Adequacy of the boundary description** - The district includes all of the area located within Fort Bend County, therefore, the boundary description is adequate. At present there are a total of 125 water-related districts in existence within the county. Additionally, there are four municipal utility districts on which a hearing is pending. A breakout of those districts now in existence, by category, are as follows: 108 municipal utility, 10 levee improvement/flood control, 6 water control and improvement, and 1 drainage. These are all located in the northern one-half of the county and north of the community of Pleak. Many of the municipal utility districts undoubtedly have wells which would be required to be permitted, subjected to regulation of spacing and production, and would be required to pay a permit fee based on the term of the permit and the maximum amount of ground water authorized to be withdrawn annually from the well.

9) **Comments on powers and duties different from similar types of districts**

This district has the normal powers and duties accorded to a subsidence district and the bill goes into great detail on its operation. The bill requires the formulation and review of a management plan within the brief period of 12 months after the effective date of the bill. This does not allow sufficient time for this project. Since the district may contract with any person to perform the duties of general manager and it may enter into contracts with any person, this may allow it to contract with the Harris-Galveston Coastal Subsidence District for general management services and the development of the required management plan.

For clarification of the bill, the following changes are recommended: a) on page 7, lines 22 and 26, the word "board" should be changed to general manager; b) on page 10, lines 22 and 25, the word "prevent" should be changed to mitigate; and c) on page 11, line 10, the phrase
"drawdown of the water table" should be changed to long-term static water-level decline.
A BILL TO BE ENTITLED
AN ACT
relating to the creation, administration, powers, duties, and
operations of the Fort Bend Subsidence District; providing for
civil penalties.

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

SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act
is to provide for the regulation of the withdrawal of groundwater
within the district created by this Act to prevent subsidence that
contributes to or precipitates flooding, inundation, or overflow of
areas within the district, including rising waters resulting from
storms or hurricanes.

(b) It is the intent of the legislature that the district
created by this Act shall administer and enforce the terms of this
Act and shall exercise its rights, powers, and duties in a manner
that will effectively and expeditiously accomplish the purposes of
this Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Person" includes a corporation, individual,
organization, government, governmental subdivision or agency,
business trust, estate, trust, partnership, or association, and any
other legal entity.

(2) "District" means the Fort Bend Subsidence
District.

(3) "Board" means the board of directors of the Fort
Bend Subsidence District.

(4) "Groundwater" means water existing below the earth's surface within the district, but does not include water produced with oil in the production of oil and gas.

(5) "Well" means a facility, device, or method used to withdraw groundwater.

(6) "Withdraw" means the act of extracting groundwater by pumping or some other method.

(7) "Drill" means drilling, equipping, or completing wells or substantially altering the size of wells or well pumps.

(8) "Subsidence" means the lowering in elevation of the surface of land by the withdrawal of groundwater.

(9) "Commission" means the Texas Water Commission.

SECTION 3. CREATION. Under Article XVI, Section 59, of the Texas Constitution, a conservation and reclamation district is created to be known as the Fort Bend Subsidence District. The district is a governmental agency, a political subdivision of the state, and a body politic and corporate.

SECTION 4. BOUNDARIES. (a) The district includes all of the territory within Fort Bend County.

(b) An adjoining county may be added to the district on application of the commissioners court of the adjoining county and compliance with the applicable provisions of Sections 55.730-55.744, Water Code.

(c) The proposition on the ballots for an election to add an adjoining county to the district shall be printed to permit voting for or against the proposition: "Addition of [county name] County to
the Fort Bend Subsidence District."

(d) A county added to the district under this section is subject to the jurisdiction of the board and this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 13 directors.

(b) One director from each of the following cities in Fort Bend County shall be appointed by the mayor of the respective city:

(1) Houston;
(2) Missouri City;
(3) Stafford;
(4) Sugar Land;
(5) Rosenberg; and
(6) Richmond.

(c) The Commissioners Court of Fort Bend County shall appoint two directors who represent agricultural interests and live in an unincorporated area, two directors who represent industrial interests, and two directors who represent business interests.

(d) One director shall be appointed by the mayors of the incorporated cities within the county not listed in Subsection (b) of this section.

(e) If an adjoining county is added to the district, four members shall be added to the board. Two members shall be chosen by the commissioners court of the county added to the district. One member each shall be chosen by the mayors of the two cities in the county added to the district that have the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered terms of office.
(f) All directors must be residents of and qualified voters in the district.

(g) The county judge of Fort Bend County shall set a date, time, and place for a meeting of the persons designated in Subsections (b), (c), and (d) of this section to choose the initial directors. The county judge shall choose a date not later than the 30th day after the effective date of this Act. The county judge shall mail notices of the meeting to the persons designated to choose the directors. The county judge shall appoint a person to preside at the meeting. The directors chosen at the meeting shall assume their positions not later than the fifth day after the date of the meeting.

(h) Selection of subsequent directors shall be made on the second Monday in January at 11 a.m. in the district's main office. Not later than the 20th day before the date of the meeting, the district shall mail notice of the meeting to the persons designated in Subsections (b), (c), (d), and (e) of this section to choose directors.

(i) The terms of office for the initial directors shall be as follows:

(1) five members chosen under Subsection (b) of this section and four members chosen under Subsection (c) of this section shall serve for terms expiring January 31, 1991; and

(2) one member chosen under Subsection (b) of this section, two members chosen under Subsection (c) of this section, and the member chosen under Subsection (d) of this section shall serve for terms expiring January 31, 1990.
(j) Except as provided by Subsection (i) of this section, members of the board shall serve for terms of two years.

(k) At the time the county judge of Fort Bend County sets the meeting required by Subsection (g) of this section, the county judge shall set the date, time, and place for the initial meeting of the board. Not later than the 20th day before the date of the initial meeting of the board, the county judge shall mail notices of the meeting to the initial directors.

(l) At the initial meeting of the board and each year at the first meeting after new directors take office, the directors shall select a chairman, a vice-chairman, and a secretary. The chairman, vice-chairman, and secretary shall serve at the pleasure of the board and may be removed and replaced by a majority of the board at any time.

(m) The chairman shall preside over meetings of the board. If the chairman is not present, the vice-chairman shall preside.

(n) Each director is entitled to receive $50 a day for each day he is engaged in the exercise of his duties under this Act and necessary travel and other expenses incurred in the exercise of his duties under this Act. A member of the board may not receive compensation and travel and other expenses for more than 120 days in any one calendar year.

(o) If a vacancy occurs on the board, the person or persons designated in Subsection (b), (c), (d), or (e) of this section to appoint a director for the position that is vacated shall appoint a director to serve the unexpired term.

(p) Each director shall take the oath of office prescribed
by law for county commissioners and shall execute a bond in the
amount of $5,000, payable to the district, conditioned on the
faithful performance of his duties. The district shall pay for the
bond.

(q) A majority of the directors constitute a quorum for
transaction of business of the district. An official act of the
board is not valid without the affirmative vote of a majority of
the directors.

(r) The board shall hold one regular meeting each month at a
time set by the board. The board may hold special meetings at the
call of the chairman or on the written request of at least three
directors.

SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board
shall administer this Act as provided by Section 1 of this Act.

(b) Withdrawals of groundwater covered by this Act are
subject to reasonable rules, regulations, and orders adopted by the
board.

(c) In adopting rules, regulations, and orders, the board
shall consider the following factors:

(1) availability of surface water;

(2) economic impact on persons and the community;

(3) degree and effect of subsidence on the surface of
the land; and

(4) differing topographical and geophysical
characteristics of the land.

(d) The board has all other powers necessary or convenient
to carry out its responsibilities and achieve the purpose of this
SECTION 7. GENERAL MANAGER. (a) The board shall employ a
general manager who shall be the chief administrative officer of
the district. The board may delegate to the general manager the
authority to manage and operate the affairs of the district subject
only to orders of the board.

(b) The duties of the general manager include:

(1) administration of the orders of the board;

(2) coordination with state, federal, and local
agencies;

(3) supervision of the development of plans and
programs of the district;

(4) preparation and submission of the annual budget to
the board; and

(5) other duties assigned by the board.

(c) The general manager shall execute a bond in an amount
determined by the board, payable to the district, conditioned on
the faithful performance of his duties. The district shall pay for
the bond.

(d) The district may contract with any person to perform the
duties of general manager.

SECTION 8. EMPLOYEES. (a) The board shall employ personnel
necessary for the proper handling of the business and operation of
the district and may employ attorneys, bookkeepers, engineers, and
other expert and specialized personnel that are considered
necessary. The board shall determine the compensation to be paid
by the district to the employees.
(b) The board shall determine the term of office of and the compensation to be paid to the general manager. The board may discharge the general manager by a majority vote. The board may discharge employees of the district.

(c) The board shall require an employee who collects, pays, or handles funds of the district to furnish good and sufficient bond, payable to the district, for a sufficient amount to safeguard the district. The bond shall be conditioned on the faithful performance of the employee's duties and on accounting for all funds and property of the district under the employee's control. The district shall pay for the bond.

SECTION 9. DISTRICT OFFICE. The board shall maintain its principal office for conducting the business of the district. The office must be located inside the district.

SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district shall keep a true and complete account of the board's meetings and proceedings and shall preserve the board's minutes, contracts, records, notices, accounts, and receipts in a fireproof vault or safe. The board's minutes, contracts, records, notices, accounts, and receipts are the property of the district and are subject to public inspection.

SECTION 11. SUITS. The district may sue and be sued in the courts of this state in the name of the district by and through the board. If requested by the district, the attorney general shall represent the district in the district and appellate courts of this state and in the courts of the United States. The board, in its sole discretion, may employ attorneys to represent the district in
the district and appellate courts of this state and in the courts of the United States. All courts shall take judicial notice of the creation of the district and of its boundaries.

SECTION 12. SEAL. The board shall adopt a seal.

SECTION 13. RULES AND REGULATIONS. (a) After notice and hearing under Section 14 of this Act, the board shall adopt and enforce rules and regulations that are designed to expeditiously and effectively accomplish the provisions and purposes of this Act, including rules governing procedure before the board.

(b) The board shall compile its rules and regulations in a book and make the book available for use and inspection at the district's principal office. The district shall provide copies of its rules and regulations on payment of the cost of reproduction.

SECTION 14. HEARINGS. (a) At regular meetings of the board, the board shall set the dates, times, and locations for hearings to be held under this Act.

(b) Not later than the 20th day before the date set for a hearing, the district shall deliver or mail notice of the hearing under this section to each county and municipal government within the district and to each person that the board believes has an interest in the subject matter to be dealt with at the hearing.

(c) Not later than the 20th day before the date set for a hearing, the district shall publish notice of the hearing under this section once in a newspaper of general circulation in each county within the district.

(d) Not later than the 20th day before the date set for a hearing, the district shall post the notice of the hearing under
this section at the county courthouse of each county within the
district in the place where notices are usually posted.

(e) Any person who desires to appear at a hearing and
present testimony, evidence, exhibits, or other information may do
so in person, by counsel, or both.

(f) The board may hold hearings at any location within the
district.

(g) The board may recess a hearing from day to day.

(h) The board may use hearing examiners to hear any subject
set for the hearing. Procedures for use of hearing examiners shall
be provided in the rules and regulations.

SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND
SUBPOENAS. The board may subpoena a person to testify if the
person's testimony is necessary to carry out the powers, duties,
and functions of the board under this Act. The board may
administer oaths to persons who testify before the board. The
board may subpoena documents if the documents are necessary to
carry out the powers, duties, and functions of the board under this
Act. On application of the board, a district court shall enforce
the subpoena in the same manner as a subpoena issued by the court.

SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this
Act, the board shall formulate a plan to control and prevent
subsidence within the district. The plan shall accomplish this
purpose by the regulation of groundwater withdrawals to maintain
sufficient artesian pressure to control and prevent subsidence.

(b) The plan shall specify, in as much detail as
practicable, the acts, procedures, performance, and avoidance that
are necessary to carry out the purposes of this Act.

(c) When formulating the plan, the board shall compile and consider:

(1) a list of wells in the district that will be subject to regulation under this Act;

(2) an accurate estimate of groundwater production from each well or proposed well in the district;

(3) an accurate estimate of the amount of groundwater that may be produced from each well and each area in the district without causing drawdown of the water table and reduction of artesian pressure that will lead to subsidence within the district;

(4) an accurate estimate of the current and future water needs of each well owner in the district;

(5) an accurate estimate of the groundwater production capacity of each well in the district;

(6) a list of all available sources of water in the district other than groundwater;

(7) the purpose for which the water is currently used and for which it is proposed to be used in the future;

(8) information relating to formulation of a permit system; and

(9) other information necessary to carry out the management of groundwater in the district and to effectively and expeditiously accomplish the purposes of this Act.

(d) The plan shall be formulated not later than 12 months after the effective date of this Act.

(e) Not later than the 60th day after the date the plan is
formulated, the board shall review and adopt the plan.

(f) Before the plan is adopted, the board shall hold a hearing under Section 14 of this Act to consider the proposed plan.

(g) After the hearing, the board shall make any changes it considers necessary based on evidence and material presented at the hearing and shall adopt the plan.

(h) The plan adopted under this section may be amended or repealed. A new plan may be adopted in the manner provided in this section for the adoption of the original plan. A plan, once adopted, shall remain in effect until the adoption of a new plan.

SECTION 17. TEMPORARY REGULATION. During the period that the board is formulating and adopting the plan under Section 16 of this Act, the board shall adopt temporary rules and regulations relating to the withdrawal of groundwater that are necessary to control subsidence.

SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well located in the district must obtain a permit from the board to withdraw groundwater.

(b) Owners of wells operating or being drilled on the effective date of this Act must apply for a permit before January 1, 1990, and may continue to operate the well without a permit until the application for a permit for the well is acted on by the board.

(c) A permit issued under this Act is valid for a term of one year from the date it is issued unless a longer or shorter term is specified by the board. The board may issue a permit for a term not to exceed five years in order to aid the district in the
effective and expeditious performance of its duties if issuance of
the permit does not impair the ability of the district to control
and prevent subsidence within the district.

(d) A permit may be revoked, suspended, modified, or amended
after notice and public hearing under Section 14 of this Act
whenever reasonably necessary to accomplish the purposes of this
Act.

(e) Permits may be renewed in the same manner as permits are
issued.

(f) To obtain a permit, a person must submit an application
and an application fee to the board. The application must state:

(1) the person's name;

(2) the person's address;

(3) the location and wellhead elevation of the well or
proposed well;

(4) the amount of water being produced or proposed to
be produced; and

(5) any other information required by the board as
necessary for the board to control and prevent subsidence in the
district.

(g) The board shall use the application fee to process
applications.

SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board
shall hold a hearing on each application.

(b) Not later than the 20th day before the date set for the
hearing, the board shall notify the applicant by certified mail,
return receipt requested, of the date, time, and location of the
(c) Except as provided by this section, the hearing shall be conducted and notice of hearing given under Section 14 of this Act.

(d) The board may consider as many applications for permits as it considers necessary at a hearing.

SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the 35th day after the date of the hearing, the board shall decide whether or not to issue a permit and shall formulate the terms of the permit, if issued.

(b) In deciding whether or not to issue a permit and in setting the terms of the permit, the board shall consider:

(1) the purpose of this Act;

(2) the district plan;

(3) the quality, quantity, and availability of surface water at prices competitive with those charged by suppliers of surface water within the district; and

(4) the economic impact on the applicant of granting or denying the permit or of the terms prescribed by a permit in relation to the effect on subsidence that would result.

(c) The board shall grant a permit to an applicant whenever the board finds on sufficient evidence that:

(1) there is no other adequate and available substitute or supplemental source of surface water at prices competitive with those charged by suppliers of surface water within the district; and

(2) compliance with any provision of this Act, or any rule or regulation of the district, will result in an arbitrary
taking of property or in the practical closing and elimination of any lawful business, occupation, or activity, without sufficient corresponding benefit or advantage to the people.

(d) If the board decides to issue the permit, the permit must state the terms prescribed by the board.

(e) The permit must include the following:

(1) the name and address of the permittee;

(2) the location of the well;

(3) the date the permit begins and the date the permit expires;

(4) conditions and restrictions placed on the withdrawal of groundwater;

(5) adoption of water conservation measures for the purpose of preventing waste of groundwater, including educational programs; and

(6) any other terms and conditions necessary to control and prevent subsidence.

SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under this Act is not transferable unless the permittee and new owner notify the district by certified mail, return receipt requested, of the transfer of ownership of the well and provide the name and address of the new owner. On receipt of that information, the district shall issue an amended permit with the new owner of the well as permittee. The remaining terms of the permit shall remain unchanged.

SECTION 22. ANNUAL REPORTS. Before January 31 of each year, each owner of a well who holds a permit under this Act shall submit
a report to the board stating the following:

(1) the person's name;
(2) the location of the well;
(3) the total amount of groundwater produced by the well during the immediately preceding 12-month period;
(4) the total amount of groundwater produced by the well during each separate month of the immediately preceding 12-month period;
(5) the purpose for which the groundwater was used;
(6) the date the permit expires; and
(7) any other information required by the board as necessary for the board to control and prevent subsidence within the district.

SECTION 23. BOARD INVESTIGATIONS. At least once each year and at any other time that the board considers necessary, the board may have its staff make a complete study of the groundwater situation within the district and determine the water level, rates of withdrawal, amounts of withdrawal, and other information relating to the withdrawal of groundwater that may affect the subsidence of land within the district.

SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.

(a) Before March 31 of each year, the board shall hold a hearing under Section 14 of this Act to determine the effects during the preceding calendar year of groundwater withdrawal on the subsidence of land within the district.

(b) At the hearing, the board shall consider the annual reports submitted under Section 22 of this Act and the
investigation made under Section 23 of this Act in addition to information represented by persons appearing before the board.

(c) After the hearing, the board shall consider all the information presented to it and shall determine the groundwater withdrawal in the district during the preceding calendar year and shall make findings of the effects of groundwater withdrawal during that year on the subsidence of land within the district. A report of the board's findings and determinations shall be made available for examination by any interested person.

SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In order to minimize as far as practicable the drawdown of the water table and reduction of artesian pressure and to control and prevent subsidence, the board may provide for the spacing of wells and regulate the production of groundwater from the wells, taking into consideration any relevant factors, including the economic impact on well owners and the resulting effect on subsidence.

(b) Before issuing any rule, regulation, or order under this section, the board shall set a hearing on the proposed rule, regulation, or order and issue notice of the hearing. Notice must be given and hearings conducted in the manner provided in Section 14 of this Act.

SECTION 26. REQUIRING WATER-METERING DEVICES. The board may adopt orders after notice and hearing under Section 14 of this Act requiring water-metering devices to be placed on wells.

SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical and other investigations necessary to the implementation of this Act, the board and its agents and employees are entitled to access
to all property within the district.

(b) Before entering property for the purposes stated in
Subsection (a) of this section, the person seeking access shall
give notice to the owner of the property in the manner provided by
the rules and regulations of the district and shall present proper
credentials.

(c) The board, and its agents and employees who enter
private property, shall observe the establishment's rules and
regulations concerning safety, internal security, and fire
protection.

SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The
district may use subsidence compaction monitors, water level
observation wells, and other materials and equipment to determine
the amount of groundwater that may be produced while allowing the
rebound and stabilization of groundwater to a level that will halt
subsidence.

SECTION 29. RESEARCH AND STUDIES. The board may conduct
studies and research that it considers necessary to implement this
Act. The board may use the services of geologists, hydrologists,
registered professional engineers, or other expert personnel to
accomplish the purposes of this section.

SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER
GOVERNMENTAL ENTITIES. The board may cooperate with and request
the assistance of the Texas Water Development Board, the
commission, the United States Geological Survey, local governments,
and other agencies of the United States and the State of Texas in
implementing this Act.
SECTION 31. CONTRACTS. The board may enter into contracts with any person to carry out this Act.

SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT. (a) A person who is adversely affected by a rule, regulation, order, or other official action of the board may appeal to a district court in any county in the district.

(b) For the purposes of this section, "a person who is adversely affected" includes a person residing in or owning real property in the district whose residence or real property is subsiding. An appeal under this section must be filed not later than the 45th day after the date the rule, regulation, order, or other official action appealed from is promulgated.

(c) On written request of a person who is adversely affected, the board shall make written findings and conclusions with respect to a rule, regulation, order, or other official action of the district. Not later than the 35th day after the request was made, the board shall provide a certified copy of the findings and conclusions to the person who made the request.

(d) In appeals taken under this section, the substantial evidence rule shall be used to determine the legal propriety of a rule, regulation, order, or other action of the board.

SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE COMMISSION. (a) As an alternative to the appeal provided by Section 32 of this Act, a person who is granted a permit authorizing withdrawal of groundwater in an amount less than requested by that person may appeal the board's final decision to the commission. The appeal shall be filed not later than the 60th
H.B. No. 2819

day after the date of the final order of the board.

(b) On written request of the person proposing to appeal an order under Subsection (a) of this section, the board shall make written findings and conclusions with respect to the order and shall provide certified copies of the findings and conclusions to the person making the request not later than the 35th day after the date on which the written request is submitted to the board.

(c) The effect of a board order is stayed until the decision of the commission in an appeal under this section is final.

(d) The review on appeal to the commission under this section is governed by the substantial evidence rule as provided by Section 19(e), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(e) The commission may adopt necessary rules to carry out the provisions of this section.

(f) An appeal from a final decision of the commission is to a district court in Travis County and is governed by the substantial evidence rule. Any party to the proceedings before the commission may appeal a decision of the district court in the manner provided for other civil actions, but a party appealing a decision of a district court is not required to provide an appeal bond.

(g) Under this section, the commission may adopt and assess reasonable and necessary fees adequate to recover the costs of the commission in administering this section.

SECTION 34. PERMIT FEE. (a) At the time a permit is issued or renewed, the board shall collect from the permittee a permit
fee, established by schedule, based on the term of the permit and
the maximum amount of groundwater authorized by the board to be
withdrawn annually from the well.

(b) The fee schedule shall be determined by the board after
a hearing under Section 14 of this Act.

(c) The board shall use the funds obtained from permit fees
to cover the costs of issuing permits and performing other
functions under this Act.

SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On
behalf of the district, the board may:

(1) purchase, lease, own, convey, and dispose of
property both inside and outside the district necessary or
convenient to the exercise of the powers, duties, and functions of
the board under this Act;

(2) accept grants, gifts, and devises of property;

(3) construct, purchase, lease, or acquire in some
other manner any material or property necessary to carry out this
Act; and

(4) accept gifts, grants, loans, or other
distributions of money.

SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and
rights of the owner of land and his lessees and assigns in
groundwater are recognized and nothing in this Act shall be
construed as depriving or divesting the owner or his lessees and
assigns of the ownership or rights, subject to rules and
regulations and orders and other official actions of the district.

SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and
administrative rules relating to the use of surface water do not
apply to groundwater.

SECTION 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. The
district may not sell or distribute surface water or groundwater
for any purpose.

SECTION 39. EXCLUSIONS. This Act does not apply to:

(1) wells regulated under Chapter 27, Water Code;

(2) shallow wells producing water solely to prevent
hazardous sand boils, dewater surface construction sites, or
relieve hydrostatic uplift on permanent structures and not used to
provide water for human consumption, agricultural use,
manufacturing or industrial use, or water injection;

(3) persons owning only one well within the district
if the well has a casing with an inside diameter of five inches or
less; and

(4) on application for an exemption on a form
prescribed by the board, other wells with a casing that has an
inside diameter of five inches or less that serve a single-family
dwelling and have a negligible effect on subsidence within the
district.

SECTION 40. DISBURSEMENT OF FUNDS. The district's money may
be disbursed by check, draft, order, or other instruments, signed
by the person or persons authorized to do so by the board's bylaws
or by resolution of the board.

SECTION 41. ACCOUNTS AND INDEPENDENT AUDIT. (a) The
district shall keep a complete system of accounts and shall have
its affairs audited each year by an independent certified public
accountant or a firm of independent certified public accountants of recognized integrity and ability. The district shall pay for the audit.

(b) The board shall deliver a copy of the audit to the commissioners court of each county in the district. The board shall keep one copy of the audit at the district office, open to inspection by any interested person during normal office hours.

SECTION 42. DEPOSITORY BANKS. (a) The board shall designate one or more banks within the district to serve as depository for the funds of the district. Except as provided by Subsection (b) of this section, all funds of the district shall be deposited in a depository bank.

(b) To the extent provided in a trust indenture, bond proceeds and funds pledged to pay bonds may be deposited with the trustee bank named in the trust indenture and shall be remitted to the bank of payment for the payment of the principal of and interest on the bonds.

(c) To the extent that funds in a depository bank or a trustee bank are not invested or insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

(d) Before designating a depository bank, the board shall issue a notice stating the time and place the board will meet for that purpose and shall invite the banks in the district to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. The board shall publish the notice once in a newspaper of general circulation in
the district or mail a copy of the notice to each bank in the
district.

(e) The board shall consider the management and condition of
the banks that apply and shall designate as depositories the bank
or banks that offer the most favorable terms and conditions for
handling of the funds of the district and that the board finds have
proper management and are in condition to warrant handling of
district funds.

(f) Membership on the board of an officer or director of a
bank does not disqualify the bank from being designated as
depository.

(g) If no applications are received before the meeting, the
board shall designate a bank or banks within or outside the
district on terms and conditions it finds advantageous to the
district.

SECTION 43. PENALTIES. (a) If a person has violated, is
violating, or is threatening to violate a provision of this Act or
a rule, regulation, permit, or other order of the district, the
district may bring a civil action in a district court within the
district for an injunction to restrain the person from continuing
the violation or the threat of violation, for a civil penalty of
not less than $50 nor more than $5,000 for each violation and for
each day of violation, or for both injunctive relief and civil
penalty.

(b) At the request of the district, or the general manager
authorized by the board, the attorney general shall institute the
action. However, the district in its sole discretion may employ
attorneys of its choice to institute the action.

(c) The board is not required to post bond or other security
with the court under this section.

(d) On application for injunctive relief and a finding that
a person is violating or threatening to violate any provision of
this Act or any rule, permit, or other order of the district, the
district court shall grant any injunctive relief the facts may
warrant.

SECTION 44. LEGISLATIVE FINDING OF AUTHORITY. The
legislature finds that the requirements of Article XVI, Sections
59(d) and (e), of the Texas Constitution have been performed and
accomplished and that the legislature has the power and authority
to enact this Act.

SECTION 45. EMERGENCY. The importance of this legislation
and the crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.
Amend H.B. 2819 as follows:

(1) On page 7, line 2 strike "shall" and substitute "may"

(2) On page 10, line 22 strike "prevent" and substitute "mitigate"

(3) On page 10, line 25 strike "prevent" and substitute "mitigate"

(4) On page 11, line 10 strike "drawdown of the water table" and substitute "long term static water level decline"
The Honorable Gib Lewis  
Speaker of the House of Representatives  

Sir:  

We, your COMMITTEE ON NATURAL RESOURCES,  

to whom was referred __________ HB 2819 __________ have had the same under consideration and beg to report  

(measure)  

back with the recommendation that it  

( ) do pass, without amendment.  
(x) do pass, with amendment(s).  
( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.  

A fiscal note was requested. ( ) yes (x) no  

An actuarial analysis was requested. ( ) yes (x) no  

An author's fiscal statement was requested. (x) yes ( ) no  

A criminal justice policy impact statement was prepared. ( ) yes (x) no  

A water development policy impact statement was requested. (x) yes ( ) no  

( ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the ( ) Local, ( ) Consent, or ( ) Resolutions Calendar.  

This measure (x) proposes new law. ( ) amends existing law.  

House Sponsor of Senate Measure  

The measure was reported from Committee by the following vote:  

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Total   8 aye  

0 nay  

0 present, not voting  

1 absent  

[Signatures]  

CHAIRMAN  
COMMITTEE COORDINATOR
BILL ANALYSIS

Background

It is believed that creation of the district would be of benefit to the residents of the area.

Purpose of the Bill

This bill creates the Fort Bend Subsidence District and provides for its powers.

Section by Section Analysis

Section 1. Statement of purpose.

Section 2. Definitions.

Section 3. Creates the district.

Section 4. Establishes the boundaries of the district as coterminous with those of Fort Bend County; provides for the addition of other counties.

Section 5. Provides for the composition of the board of directors, and for the qualifications, terms of office, duties and procedures to be followed by members of the board.

Section 6. Provides for the general powers of the district to make rules governing withdrawals of groundwater, sets forth factors to consider in adopting rules.

Section 7. Provides for the employment of a general manager.

Section 8. Provides for the employment of necessary personnel.

Section 9. Requires the board maintain its principal office within the district.

Section 10. Requires the keeping of records and minutes; allows public inspection.

Section 11. Allows the district to participate in suits.

Section 12. Requires the adoption of a seal.

Section 13. Charges the board to adopt and enforce rules to accomplish the purposes of this Act following appropriate hearings. Requires the rules be available to the public.

Section 14. Provides for the publication of notice and holding of hearings.
Section 15. Gives the board power to subpoena witnesses and hear sworn testimony.

Section 16. Charges the board with formulating a plan to control and prevent subsidence, provides for the formulation of the plan.

Section 17. Provides for the adoption of temporary rules while the board is formulating the plan.

Section 18. Requires permits for groundwater withdrawals, provides for permitting existing wells, and for the duration, revocation or amendment, renewal, and application to obtain permits. Provides for application fees.

Section 19. Provides for notification of applicants and the holding of hearings on each permit application.

Section 20. Requires a decision by the board on a permit application within 35 days of the hearing, sets forth factors to be considered in the decision, and the terms of permits issued.

Section 21. Provides that permits are not transferable without notice to the district.

Section 22. Requires an annual report of groundwater use by each permittee.

Section 23. Provides for annual study of the groundwater situation in the district.

Section 24. Provides for annual hearings to consider groundwater use reports filed by permittees and to determine groundwater withdrawal and its effects.

Section 25. Allows regulation of spacing and production from wells after appropriate notice and hearing.

Section 26. Allows rules requiring meters on wells, after appropriate notice and hearing.

Section 27. Allows access to property for the purpose of investigations.

Section 28. Allows the use of certain equipment and facilities to monitor and supervise groundwater withdrawals.

Section 29. Allows use of professional services by the district in conducting necessary studies and research.

Section 30. Allows cooperation with other governmental entities.

Section 31. Provides contracting authority to the district.

Section 32. Sets forth procedures for appeals to the district court of decisions of the board.

Section 33. Provides for the option of appeal to the Texas Water Commission for certain decisions of the board; sets forth procedures for such appeals.
Section 34. Provides for the collection of permit fees, and for the establishment of a fee schedule.

Section 35. Provides for the boards' authority to purchase or dispose of property and to accept gifts or grants.

Section 36. States that this Act is not to be construed as a taking of rights of ownership.

Section 37. States that surface water laws do not apply to groundwater.

Section 38. Prohibits the district from selling water.

Section 39. Excludes certain wells from regulation, including wells regulated under Chapter 27, Water Code; shallow wells constructed for purposes of drainage or relief of hydrostatic uplift, and single wells of less than five inches diameter.

Section 40. Provides for the methods of disbursement of district funds.

Section 41. Provides for the keeping of accounts and annual audit of district finances.

Section 42. Provides for the deposit, investment, and security of district funds.

Section 43. Allows the district to seek injunctions or civil penalties for violations.

Section 44. Legislative finding of compliance with notice requirements.

Section 45. Emergency clause.

Rulemaking Authority

This bill delegates authority to the Texas Water Commission to adopt rules regarding appeals of orders of the district board in Section 33(e) of this Act.

Summary of Committee Action

The posting rules were suspended in order to take up HB 2819 in public hearing on April 19, 1989. Representative Tallas introduced his bill, and proposed the following amendments: (1) On page 7, line 2 strike "shall" and substitute "may", allowing the district discretion over employment of a general manager; Amendments 2 through 4 clarify language used in the bill as follows: (2) on page 10, line 22 strike "prevent" and substitute "mitigate"; (3) on page 10, line 25 strike "prevent" and substitute "mitigate"; (4) on page 11, line 10 strike "drawdown of the water table" and substitute "long term static water level decline". R. L. O'Shieles, Bob Lutts, and Daniel Gerken, representing the Fort Bend County Commissioners and the proposed district, registered their support of the bill for the record but did not testify. The amendments were adopted and the motion to report the bill favorably, as amended, carried with a vote of 8 ayes, 0 nays, 0 PNV, and 1 absent.
April 19, 1989

The Honorable Terral Smith
Chairman, Committee on Natural Resources
House of Representatives
Austin, Texas

Dear Mr. Chairman:

In response to your request for an Author's Fiscal Statement on HB 2819 relating to the creation, powers, duties, administration and operations of the Fort Bend County Subsidence District, I have determined the following:

The costs to local governments for the creation of this district appear to be minimal. Each of the member cities may incur slight administrative costs for processing the mayoral appointments to the board of directors.

The costs to the district of developing a management plan, adopting temporary rules and conducting hearings will be financed by permit fees, as well the ongoing operating costs of the districts.

FISCAL YEAR PROJECTIONS

1990...Minimal  
1991...same as 1990 anticipated  
1992...same as 1990 anticipated

Please let me know if I can provide further information to you.

Sincerely,

Jim Tallas

JT/rc

COMMITTEES: State Affairs, Chairman of Budget and Oversight  
Appropriations  
Calendars
The Honorable William P. Clements, Jr.
Governor of Texas

The Honorable William P. Hobby
Lieutenant Governor and President of the Senate

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, SS2 and Article XVI, SS9(d), Texas Constitution: Fort Bend Subsidence District

Dear Governor Clements:

The following attachment is submitted in response to the above-referenced constitutional requirements. Items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Speaker of the House Gib Lewis, House of Representatives
Senator H. Tati Santiesteban, Chairman,
Senate Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives
April 19, 1989

The Honorable Gib Lewis  
Speaker of the House of Representatives  
P.O. Box 2910  
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 2819) – Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen Beinke  
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives  
Ms. Betty King, Secretary of the Senate  
Representative Terral Smith, Chairman, House Natural Resources Committee  
Senator Bill Sims, State Senate  
Representative Jim Tallas, House of Representatives
Water Development Policy Impact Statements for House Bill 2819 (H.B. 2819) relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend Subsidence District follow.

Wells located within the limits of this proposed district which covers all of Fort Bend County, utilize the Gulf Coast aquifer. During the period from 1975-1985, excessive water-level declines occurred primarily in the southeastern one-half of the county, with up to 40 feet of water-table decline taking place. During this same time, between 50-100 feet of artesian decline also occurred in the north-central part of the county. Excessive pumppage with its associated water-level declines, triggers land-surface subsidence. This is hydrogeologic justification for the district. The Harris-Galveston Coastal Subsidence District which encompasses all of Harris and Galveston Counties, adjoins the proposed district on the northeast. Fort Bend County lies within a state designated critical area.

H.B. 2819 provides for the regulation of the withdrawal of groundwater within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall exercise its rights, powers, and duties in a manner which will effectively and expeditiously accomplish the purpose of the act. The district is proposed to be created under Article XVI, Section 59, of the Texas Constitution and as a conservation and reclamation district. Specific impact statements related to required headings follow:

1) Population projections - The proposed District is coterminous with the boundaries of Fort Bend County. The Board's current projected
population for Fort Bend County indicates an anticipated increase in population ranging from 154,831 to 208,720 over the next 20 years.

2) **District finances** - The district shall collect from a permittee (owner of a well other than specific types which are excluded) a permit fee, established by a schedule set by the board following a hearing, based on the term of the permit (one to five years) and the maximum amount of ground water authorized to be withdrawn annually from the well. Permit fee funds obtained shall be used to cover the costs of issuing permits and performing other district functions. The district may also accept grants, gifts, devises of property (which it may dispose of), and other distributions of money.

3) **Board of directors & powers** - This proposed district is to be governed by a board of 13 directors. Six of these are to be composed of one director each from the cities of Houston, Missouri City, Stafford, Sugar Land, Rosenberg, and Richmond who are to be appointed by the mayor of the respective cities. Five of these shall serve terms expiring January 31, 1991. One member's term shall expire January 31, 1990. Two directors representing agricultural interests who live in an unincorporated area, and four directors (two each) will represent industrial and business interests. Four of the six shall serve terms expiring January 31, 1991. The terms of the other two shall expire January 31, 1990. Additionally, one director will be appointed by all of the mayors of the other incorporated cities of the county. Except as provided for the one city member and two agricultural, industrial, or business members whose terms expire in January 31, 1989, the rest shall serve terms of two years. In the event an adjoining county is added to the district, four additional members will be added to the board. Two of these members will be chosen by the commissioners court of the affected county and one member each will be chosen by the mayors of the two cities of the affected county having the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered two year terms.
Since the bill creates a ground-water subsidence district under Article XVI, Section 59 of the Texas Constitution, and powers relating to Chapters 50, 51, and 52 of the Texas Water Code are not included, its powers are limited to those specifically set out in the bill. The bill requires that the board shall administer this act to provide for the regulation of the withdrawal of ground water within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall administer and enforce the terms of this act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of the act. Specifically, the district shall control the withdrawals of ground water with reasonable rules, regulations, and orders. These shall consider: 1) availability of surface water, 2) the economic impact on the community, 3) the degree and effect of subsidence on the surface of the land, 4) differing topographical and geophysical characteristics of the land, and 5) the board has all other powers necessary or convenient to carry out its responsibilities and achieve the act's purposes.

The district may sue and be sued in the courts in the name of the district by and through the board. The board may employ attorneys to represent the district in district and appellate courts of the state and in the courts of the United States. The district may hold hearings to receive testimony, evidence, exhibits, and other information. The board has the power to subpoena a person or documents and to enforce the subpoena. It also has the power to administer oaths necessary to carry out the powers, duties, and functions of the board.

The board is empowered to formulate a plan within 12 months to control and prevent subsidence; adopt temporary rules during plan development; require well permits for one to five years and revoke, suspend, or modify these permits; to conduct required hearings; prepare annual reports relating to the number of wells and their respective pumpage; make annual studies of the ground-water situation including determination of the effects of ground-water withdrawal on subsidence;
regulate well spacing and pumpage; require metering devices; access property to conduct investigations; use monitoring devices to determine water-level declines and land-surface compaction; to cooperate with and obtain assistance from other governmental entities; to conduct research and studies; to enter into contracts with any person; disburse funds; and to assess penalties for violations of district regulations.

The district's powers do not apply to surface water and it may not sell or distribute surface or ground water. The act also recognizes private ownership of ground water. Additionally, the district may not control certain types of wells specifically set out in the bill. These include wells with a casing having an inside diameter of five inches or less that serve a single-family dwelling which have a negligible effect on subsidence.

4) **Effect on Texas Water Development Board's water plan** - The Board finds that creation of a proposed subsidence control district is consistent with the State Water Plan objective of local control of groundwater to prevent the effects of subsidence in southeastern Texas. The Board has provided regional water supply planning grant assistance to improve the management of groundwater and promote conversion to surface water supplies in most of Fort Bend County, and the results of the Board-funded planning projects indicate a need to better manage groundwater resources in the area.

5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Sections 50.001 through 50.106, Texas Water Code.

6) **Eminent domain power** - This district does not have this power.

   II
   - -
7) Exclusion of land from district - This bill contains no specific provisions for the exclusion of land from the district; however, Section 4 of the bill sets out the procedure for adding adjoining counties to the district.

8) Adequacy of the boundary description - The district includes all of the area located within Fort Bend County, therefore, the boundary description is adequate. At present there are a total of 125 water-related districts in existence within the county. Additionally, there are four municipal utility districts on which a hearing is pending. A breakout of those districts now in existence, by category, are as follows: 108 municipal utility, 10 levee improvement/flood control, 6 water control and improvement, and 1 drainage. These are all located in the northern one-half of the county and north of the community of Pleak. Many of the municipal utility districts undoubtedly have wells which would be required to be permitted, subjected to regulation of spacing and production, and would be required to pay a permit fee based on the term of the permit and the maximum amount of ground water authorized to be withdrawn annually from the well.

9) Comments on powers and duties different from similar types of districts
This district has the normal powers and duties accorded to a subsidence district and the bill goes into great detail on its operation. The bill requires the formulation and review of a management plan within the brief period of 12 months after the effective date of the bill. This does not allow sufficient time for this project. Since the district may contract with any person to perform the duties of general manager and it may enter into contracts with any person, this may allow it to contract with the Harris-Galveston Coastal Subsidence District for general management services and the development of the required management plan.

For clarification of the bill, the following changes are recommended: a) on page 7, lines 22 and 26, the word "board" should be changed to general manager; b) on page 10, lines 22 and 25, the word "prevent" should be changed to mitigate; and c) on page 11, line 10, the phrase
"drawdown of the water table" should be changed to long-term static water-level decline.
Amend H.B. 2819 as follows:

(1) On page 7, line 2 strike "shall" and substitute "may"

(2) On page 10, line 22 strike "prevent" and substitute "mitigate"

(3) On page 10, line 25 strike "prevent" and substitute "mitigate"

(4) On page 11, line 10 strike "drawdown of the water table" and substitute "long term static water level decline"
FLOOR AMENDMENT NO. 2

Amend H.B. 2819 as follows:

(1) On page 22, between lines 12 and 13, insert the following:

(3) shallow wells producing water solely for groundwater quality analysis and for monitoring migration of subsurface contaminants or pollution and not used to provide water for human consumption, agricultural use, manufacturing or industrial uses, or water injection;

(4) shallow wells producing water solely for recovery of contamination or pollution and not used to provide water for human consumption, agricultural use, manufacturing or industrial use, or water injection;

(2) On page 22, line 13, strike "(3)" and substitute "(5)".

(3) On page 22, line 16, strike "(4)" and substitute "(6)".

BY Saunders
A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District; providing for civil penalties.

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

SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act is to provide for the regulation of the withdrawal of groundwater within the district created by this Act to prevent subsidence that contributes to or precipitates flooding, inundation, or overflow of areas within the district, including rising waters resulting from storms or hurricanes.

(b) It is the intent of the legislature that the district created by this Act shall administer and enforce the terms of this Act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of this Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Person" includes a corporation, individual, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(2) "District" means the Fort Bend Subsidence District.

(3) "Board" means the board of directors of the Fort
Bend Subsidence District.

(4) "Groundwater" means water existing below the earth's surface within the district, but does not include water produced with oil in the production of oil and gas.

(5) "Well" means a facility, device, or method used to withdraw groundwater.

(6) "Withdraw" means the act of extracting groundwater by pumping or some other method.

(7) "Drill" means drilling, equipping, or completing wells or substantially altering the size of wells or well pumps.

(8) "Subsidence" means the lowering in elevation of the surface of land by the withdrawal of groundwater.

(9) "Commission" means the Texas Water Commission.

SECTION 3. CREATION. Under Article XVI, Section 59, of the Texas Constitution a conservation and reclamation district is created to be known as the Fort Bend Subsidence District. The district is a governmental agency, a political subdivision of the state, and a body politic and corporate.

SECTION 4. BOUNDARIES. (a) The district includes all of the territory within Fort Bend County.

(b) An adjoining county may be added to the district on application of the commissioners court of the adjoining county and compliance with the applicable provisions of Sections 55.730-55.744, Water Code.

(c) The proposition on the ballots for an election to add an adjoining county to the district shall be printed to permit voting for or against the proposition: "Addition of _______ County to
the Fort Bend Subsidence District."

(d) A county added to the district under this section is subject to the jurisdiction of the board and this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 13 directors.

(b) One director from each of the following cities in Fort Bend County shall be appointed by the mayor of the respective city:

(1) Houston;
(2) Missouri City;
(3) Stafford;
(4) Sugar Land;
(5) Rosenberg; and
(6) Richmond.

(c) The Commissioners Court of Fort Bend County shall appoint two directors who represent agricultural interests and live in an unincorporated area, two directors who represent industrial interests, and two directors who represent business interests.

(d) One director shall be appointed by the mayors of the incorporated cities within the county not listed in Subsection (b) of this section.

(e) If an adjoining county is added to the district, four members shall be added to the board. Two members shall be chosen by the commissioners court of the county added to the district. One member each shall be chosen by the mayors of the two cities in the county added to the district that have the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered terms of office.
(f) All directors must be residents of and qualified voters in the district.

(g) The county judge of Fort Bend County shall set a date, time, and place for a meeting of the persons designated in Subsections (b), (c), and (d) of this section to choose the initial directors. The county judge shall choose a date not later than the 30th day after the effective date of this Act. The county judge shall mail notices of the meeting to the persons designated to choose the directors. The county judge shall appoint a person to preside at the meeting. The directors chosen at the meeting shall assume their positions not later than the fifth day after the date of the meeting.

(h) Selection of subsequent directors shall be made on the second Monday in January at 11 a.m. in the district's main office. Not later than the 20th day before the date of the meeting, the district shall mail notice of the meeting to the persons designated in Subsections (b), (c), (d), and (e) of this section to choose directors.

(i) The terms of office for the initial directors shall be as follows:

   (1) five members chosen under Subsection (b) of this section and four members chosen under Subsection (c) of this section shall serve for terms expiring January 31, 1991; and

   (2) one member chosen under Subsection (b) of this section, two members chosen under Subsection (c) of this section, and the member chosen under Subsection (d) of this section shall serve for terms expiring January 31, 1990.
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(j) Except as provided by Subsection (i) of this section, members of the board shall serve for terms of two years.

(k) At the time the county judge of Fort Bend County sets the meeting required by Subsection (g) of this section, the county judge shall set the date, time, and place for the initial meeting of the board. Not later than the 20th day before the date of the initial meeting of the board, the county judge shall mail notices of the meeting to the initial directors.

(l) At the initial meeting of the board and each year at the first meeting after new directors take office, the directors shall select a chairman, a vice-chairman, and a secretary. The chairman, vice-chairman, and secretary shall serve at the pleasure of the board and may be removed and replaced by a majority of the board at any time.

(m) The chairman shall preside over meetings of the board. If the chairman is not present, the vice-chairman shall preside.

(n) Each director is entitled to receive $50 a day for each day he is engaged in the exercise of his duties under this Act and necessary travel and other expenses incurred in the exercise of his duties under this Act. A member of the board may not receive compensation and travel and other expenses for more than 120 days in any one calendar year.

(o) If a vacancy occurs on the board, the person or persons designated in Subsection (b), (c), (d), or (e) of this section to appoint a director for the position that is vacated shall appoint a director to serve the unexpired term.

(p) Each director shall take the oath of office prescribed
by law for county commissioners and shall execute a bond in the amount of $5,000, payable to the district, conditioned on the faithful performance of his duties. The district shall pay for the bond.

(q) A majority of the directors constitute a quorum for transaction of business of the district. An official act of the board is not valid without the affirmative vote of a majority of the directors.

(r) The board shall hold one regular meeting each month at a time set by the board. The board may hold special meetings at the call of the chairman or on the written request of at least three directors.

SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board shall administer this Act as provided by Section 1 of this Act.

(b) Withdrawals of groundwater covered by this Act are subject to reasonable rules, regulations, and orders adopted by the board.

(c) In adopting rules, regulations, and orders, the board shall consider the following factors:

(1) availability of surface water;
(2) economic impact on persons and the community;
(3) degree and effect of subsidence on the surface of the land; and
(4) differing topographical and geophysical characteristics of the land.

(d) The board has all other powers necessary or convenient to carry out its responsibilities and achieve the purpose of this
Act.

SECTION 7. GENERAL MANAGER. (a) The board may employ a
general manager who shall be the chief administrative officer of
the district. The board may delegate to the general manager the
authority to manage and operate the affairs of the district subject
only to orders of the board.

(b) The duties of the general manager include:

(1) administration of the orders of the board;

(2) coordination with state, federal, and local
agencies;

(3) supervision of the development of plans and
programs of the district;

(4) preparation and submission of the annual budget to
the board; and

(5) other duties assigned by the board.

(c) The general manager shall execute a bond in an amount
determined by the board, payable to the district, conditioned on
the faithful performance of his duties. The district shall pay for
the bond.

(d) The district may contract with any person to perform the

SECTION 8. EMPLOYEES. (a) The board shall employ personnel
necessary for the proper handling of the business and operation of
the district and may employ attorneys, bookkeepers, engineers, and
other expert and specialized personnel that are considered
necessary. The board shall determine the compensation to be paid
by the district to the employees.
(b) The board shall determine the term of office of and the
compensation to be paid to the general manager. The board may
discharge the general manager by a majority vote. The board may
discharge employees of the district.

(c) The board shall require an employee who collects, pays,
or handles funds of the district to furnish good and sufficient
bond, payable to the district, for a sufficient amount to safeguard
the district. The bond shall be conditioned on the faithful
performance of the employee's duties and on accounting for all
funds and property of the district under the employee's control.
The district shall pay for the bond.

SECTION 9. DISTRICT OFFICE. The board shall maintain its
principal office for conducting the business of the district. The
office must be located inside the district.

SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district
shall keep a true and complete account of the board's meetings and
proceedings and shall preserve the board's minutes, contracts,
records, notices, accounts, and receipts in a fireproof vault or
safe. The board's minutes, contracts, records, notices, accounts,
and receipts are the property of the district and are subject to
public inspection.

SECTION 11. SUITS. The district may sue and be sued in the
courts of this state in the name of the district by and through the
board. If requested by the district, the attorney general shall
represent the district in the district and appellate courts of this
state and in the courts of the United States. The board, in its
sole discretion, may employ attorneys to represent the district in
the district and appellate courts of this state and in the courts of the United States. All courts shall take judicial notice of the creation of the district and of its boundaries.

SECTION 12. SEAL. The board shall adopt a seal.

SECTION 13. RULES AND REGULATIONS. (a) After notice and hearing under Section 14 of this Act, the board shall adopt and enforce rules and regulations that are designed to expeditiously and effectively accomplish the provisions and purposes of this Act, including rules governing procedure before the board.

(b) The board shall compile its rules and regulations in a book and make the book available for use and inspection at the district's principal office. The district shall provide copies of its rules and regulations on payment of the cost of reproduction.

SECTION 14. HEARINGS. (a) At regular meetings of the board, the board shall set the dates, times, and locations for hearings to be held under this Act.

(b) Not later than the 20th day before the date set for a hearing, the district shall deliver or mail notice of the hearing under this section to each county and municipal government within the district and to each person that the board believes has an interest in the subject matter to be dealt with at the hearing.

(c) Not later than the 20th day before the date set for a hearing, the district shall publish notice of the hearing under this section once in a newspaper of general circulation in each county within the district.

(d) Not later than the 20th day before the date set for a hearing, the district shall post the notice of the hearing under
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this section at the county courthouse of each county within the
district in the place where notices are usually posted.

(e) Any person who desires to appear at a hearing and
present testimony, evidence, exhibits, or other information may do
so in person, by counsel, or both.

(f) The board may hold hearings at any location within the
district.

(g) The board may recess a hearing from day to day.

(h) The board may use hearing examiners to hear any subject
set for the hearing. Procedures for use of hearing examiners shall
be provided in the rules and regulations.

SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND
SUBPOENAS. The board may subpoena a person to testify if the
person's testimony is necessary to carry out the powers, duties,
and functions of the board under this Act. The board may
administer oaths to persons who testify before the board. The
board may subpoena documents if the documents are necessary to
carry out the powers, duties, and functions of the board under this
Act. On application of the board, a district court shall enforce
the subpoena in the same manner as a subpoena issued by the court.

SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this
Act, the board shall formulate a plan to control and mitigate
subsidence within the district. The plan shall accomplish this
purpose by the regulation of groundwater withdrawals to maintain
sufficient artesian pressure to control and mitigate subsidence.

(b) The plan shall specify, in as much detail as
practicable, the acts, procedures, performance, and avoidance that
are necessary to carry out the purposes of this Act.

(c) When formulating the plan, the board shall compile and consider:

(1) a list of wells in the district that will be subject to regulation under this Act;

(2) an accurate estimate of groundwater production from each well or proposed well in the district;

(3) an accurate estimate of the amount of groundwater that may be produced from each well and each area in the district without causing long-term static water level decline and reduction of artesian pressure that will lead to subsidence within the district;

(4) an accurate estimate of the current and future water needs of each well owner in the district;

(5) an accurate estimate of the groundwater production capacity of each well in the district;

(6) a list of all available sources of water in the district other than groundwater;

(7) the purpose for which the water is currently used and for which it is proposed to be used in the future;

(8) information relating to formulation of a permit system; and

(9) other information necessary to carry out the management of groundwater in the district and to effectively and expeditiously accomplish the purposes of this Act.

(d) The plan shall be formulated not later than 12 months after the effective date of this Act.
(e) Not later than the 60th day after the date the plan is formulated, the board shall review and adopt the plan.

(f) Before the plan is adopted, the board shall hold a hearing under Section 14 of this Act to consider the proposed plan.

(g) After the hearing, the board shall make any changes it considers necessary based on evidence and material presented at the hearing and shall adopt the plan.

(h) The plan adopted under this section may be amended or repealed. A new plan may be adopted in the manner provided in this section for the adoption of the original plan. A plan, once adopted, shall remain in effect until the adoption of a new plan.

SECTION 17. TEMPORARY REGULATION. During the period that the board is formulating and adopting the plan under Section 16 of this Act, the board shall adopt temporary rules and regulations relating to the withdrawal of groundwater that are necessary to control subsidence.

SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well located in the district must obtain a permit from the board to withdraw groundwater.

(b) Owners of wells operating or being drilled on the effective date of this Act must apply for a permit before January 1, 1990, and may continue to operate the well without a permit until the application for a permit for the well is acted on by the board.

(c) A permit issued under this Act is valid for a term of one year from the date it is issued unless a longer or shorter term is specified by the board. The board may issue a permit for a term
not to exceed five years in order to aid the district in the
effective and expeditious performance of its duties if issuance of
the permit does not impair the ability of the district to control
and prevent subsidence within the district.

(d) A permit may be revoked, suspended, modified, or amended
after notice and public hearing under Section 14 of this Act
whenever reasonably necessary to accomplish the purposes of this
Act.

(e) Permits may be renewed in the same manner as permits are
issued.

(f) To obtain a permit, a person must submit an application
and an application fee to the board. The application must state:
   (1) the person's name;
   (2) the person's address;
   (3) the location and wellhead elevation of the well or
      proposed well;
   (4) the amount of water being produced or proposed to
      be produced; and
   (5) any other information required by the board as
      necessary for the board to control and prevent subsidence in the
district.

(g) The board shall use the application fee to process
applications.

SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board
shall hold a hearing on each application.

(b) Not later than the 20th day before the date set for the
hearing, the board shall notify the applicant by certified mail,
return receipt requested, of the date, time, and location of the hearing.

(c) Except as provided by this section, the hearing shall be conducted and notice of hearing given under Section 14 of this Act.

(d) The board may consider as many applications for permits as it considers necessary at a hearing.

SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the 35th day after the date of the hearing, the board shall decide whether or not to issue a permit and shall formulate the terms of the permit, if issued.

(b) In deciding whether or not to issue a permit and in setting the terms of the permit, the board shall consider:

(1) the purpose of this Act;

(2) the district plan;

(3) the quality, quantity, and availability of surface water at prices competitive with those charged by suppliers of surface water within the district; and

(4) the economic impact on the applicant of granting or denying the permit or of the terms prescribed by a permit in relation to the effect on subsidence that would result.

(c) The board shall grant a permit to an applicant whenever the board finds on sufficient evidence that:

(1) there is no other adequate and available substitute or supplemental source of surface water at prices competitive with those charged by suppliers of surface water within the district; and

(2) compliance with any provision of this Act, or any
rule or regulation of the district, will result in an arbitrary
taking of property or in the practical closing and elimination of
any lawful business, occupation, or activity, without sufficient
corresponding benefit or advantage to the people.

(d) If the board decides to issue the permit, the permit
must state the terms prescribed by the board.

(e) The permit must include the following:

(1) the name and address of the permittee;
(2) the location of the well;
(3) the date the permit begins and the date the permit
expires;
(4) conditions and restrictions placed on the
withdrawal of groundwater;
(5) adoption of water conservation measures for the
purpose of preventing waste of groundwater, including educational
programs; and
(6) any other terms and conditions necessary to
control and prevent subsidence.

SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under
this Act is not transferable unless the permittee and new owner
notify the district by certified mail, return receipt requested, of
the transfer of ownership of the well and provide the name and
address of the new owner. On receipt of that information, the
district shall issue an amended permit with the new owner of the
well as permittee. The remaining terms of the permit shall remain
unchanged.

SECTION 22. ANNUAL REPORTS. Before January 31 of each year,
each owner of a well who holds a permit under this Act shall submit a report to the board stating the following:

(1) the person’s name;
(2) the location of the well;
(3) the total amount of groundwater produced by the well during the immediately preceding 12-month period;
(4) the total amount of groundwater produced by the well during each separate month of the immediately preceding 12-month period;
(5) the purpose for which the groundwater was used;
(6) the date the permit expires; and
(7) any other information required by the board as necessary for the board to control and prevent subsidence within the district.

SECTION 23. BOARD INVESTIGATIONS. At least once each year and at any other time that the board considers necessary, the board may have its staff make a complete study of the groundwater situation within the district and determine the water level, rates of withdrawal, amounts of withdrawal, and other information relating to the withdrawal of groundwater that may affect the subsidence of land within the district.

SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.
(a) Before March 31 of each year, the board shall hold a hearing under Section 14 of this Act to determine the effects during the preceding calendar year of groundwater withdrawal on the subsidence of land within the district.
(b) At the hearing, the board shall consider the annual
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1 reports submitted under Section 22 of this Act and the
2 investigation made under Section 23 of this Act in addition to
3 information represented by persons appearing before the board.
4
5 (c) After the hearing, the board shall consider all the
6 information presented to it and shall determine the groundwater
7 withdrawal in the district during the preceding calendar year and
8 shall make findings of the effects of groundwater withdrawal during
9 that year on the subsidence of land within the district. A report
10 of the board's findings and determinations shall be made available
11 for examination by any interested person.
12
13 SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
14 order to minimize as far as practicable the drawdown of the water
15 table and reduction of artesian pressure and to control and prevent
16 subsidence, the board may provide for the spacing of wells and
17 regulate the production of groundwater from the wells, taking into
18 consideration any relevant factors, including the economic impact
19 on well owners and the resulting effect on subsidence.
20
21 (b) Before issuing any rule, regulation, or order under this
22 section, the board shall set a hearing on the proposed rule,
23 regulation, or order and issue notice of the hearing. Notice must
24 be given and hearings conducted in the manner provided in Section
25 14 of this Act.
26
27 SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
28 adopt orders after notice and hearing under Section 14 of this Act
29 requiring water-metering devices to be placed on wells.
30
31 SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
32 and other investigations necessary to the implementation of this
Act, the board and its agents and employees are entitled to access to all property within the district.

(b) Before entering property for the purposes stated in Subsection (a) of this section, the person seeking access shall give notice to the owner of the property in the manner provided by the rules and regulations of the district and shall present proper credentials.

(c) The board, and its agents and employees who enter private property, shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.

SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The district may use subsidence compaction monitors, water level observation wells, and other materials and equipment to determine the amount of groundwater that may be produced while allowing the rebound and stabilization of groundwater to a level that will halt subsidence.

SECTION 29. RESEARCH AND STUDIES. The board may conduct studies and research that it considers necessary to implement this Act. The board may use the services of geologists, hydrologists, registered professional engineers, or other expert personnel to accomplish the purposes of this section.

SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER GOVERNMENTAL ENTITIES. The board may cooperate with and request the assistance of the Texas Water Development Board, the commission, the United States Geological Survey, local governments, and other agencies of the United States and the State of Texas in
implementing this Act.

SECTION 31. CONTRACTS. The board may enter into contracts with any person to carry out this Act.

SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT.

(a) A person who is adversely affected by a rule, regulation, order, or other official action of the board may appeal to a district court in any county in the district.

(b) For the purposes of this section, "a person who is adversely affected" includes a person residing in or owning real property in the district whose residence or real property is subsiding. An appeal under this section must be filed not later than the 45th day after the date the rule, regulation, order, or other official action appealed from is promulgated.

(c) On written request of a person who is adversely affected, the board shall make written findings and conclusions with respect to a rule, regulation, order, or other official action of the district. Not later than the 35th day after the request was made, the board shall provide a certified copy of the findings and conclusions to the person who made the request.

(d) In appeals taken under this section, the substantial evidence rule shall be used to determine the legal propriety of a rule, regulation, order, or other action of the board.

SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE COMMISSION. (a) As an alternative to the appeal provided by Section 32 of this Act, a person who is granted a permit authorizing withdrawal of groundwater in an amount less than requested by that person may appeal the board's final decision to
the commission. The appeal shall be filed not later than the 60th

day after the date of the final order of the board.

(b) On written request of the person proposing to appeal an

order under Subsection (a) of this section, the board shall make

written findings and conclusions with respect to the order and

shall provide certified copies of the findings and conclusions to

the person making the request not later than the 35th day after the

date on which the written request is submitted to the board.

(c) The effect of a board order is stayed until the decision

of the commission in an appeal under this section is final.

(d) The review on appeal to the commission under this

section is governed by the substantial evidence rule as provided by

Section 19(e), Administrative Procedure and Texas Register Act

(Article 6252-13a, Vernon's Texas Civil Statutes).

(e) The commission may adopt necessary rules to carry out

the provisions of this section.

(f) An appeal from a final decision of the commission is to

a district court in Travis County and is governed by the

substantial evidence rule. Any party to the proceedings before the

commission may appeal a decision of the district court in the

manner provided for other civil actions, but a party appealing a

decision of a district court is not required to provide an appeal

bond.

(g) Under this section, the commission may adopt and assess

reasonable and necessary fees adequate to recover the costs of the

commission in administering this section.

SECTION 34. PERMIT FEE. (a) At the time a permit is issued
or renewed, the board shall collect from the permittee a permit fee, established by schedule, based on the term of the permit and the maximum amount of groundwater authorized by the board to be withdrawn annually from the well.

(b) The fee schedule shall be determined by the board after a hearing under Section 14 of this Act.

(c) The board shall use the funds obtained from permit fees to cover the costs of issuing permits and performing other functions under this Act.

SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On behalf of the district, the board may:

(1) purchase, lease, own, convey, and dispose of property both inside and outside the district necessary or convenient to the exercise of the powers, duties, and functions of the board under this Act;

(2) accept grants, gifts, and devises of property;

(3) construct, purchase, lease, or acquire in some other manner any material or property necessary to carry out this Act; and

(4) accept gifts, grants, loans, or other distributions of money.

SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and rights of the owner of land and his lessees and assigns in groundwater are recognized and nothing in this Act shall be construed as depriving or divesting the owner or his lessees and assigns of the ownership or rights, subject to rules and regulations and orders and other official actions of the district.
SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and
administrative rules relating to the use of surface water do not
apply to groundwater.

SECTION 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. The
district may not sell or distribute surface water or groundwater
for any purpose.

SECTION 39. EXCLUSIONS. This Act does not apply to:

(1) wells regulated under Chapter 27, Water Code;

(2) shallow wells producing water solely to prevent
hazardous sand boils, dewater surface construction sites, or
relieve hydrostatic uplift on permanent structures and not used to
provide water for human consumption, agricultural use,
manufacturing or industrial use, or water injection;

(3) shallow wells producing water solely for
groundwater quality analysis and for monitoring migration of
subsurface contaminants or pollution and not used to provide water
for human consumption, agricultural use, manufacturing or
industrial uses, or water injection;

(4) shallow wells producing water solely for recovery
of contamination or pollution and not used to provide water for
human consumption, agricultural use, manufacturing or industrial
use, or water injection;

(5) persons owning only one well within the district
if the well has a casing with an inside diameter of five inches or
less; and

(6) on application for an exemption on a form
prescribed by the board, other wells with a casing that has an
inside diameter of five inches or less that serve a single-family
dwelling and have a negligible effect on subsidence within the
district.

SECTION 40. DISBURSEMENT OF FUNDS. The district's money may
be disbursed by check, draft, order, or other instruments, signed
by the person or persons authorized to do so by the board's bylaws
or by resolution of the board.

SECTION 41. ACCOUNTS AND INDEPENDENT AUDIT. (a) The
district shall keep a complete system of accounts and shall have
its affairs audited each year by an independent certified public
accountant or a firm of independent certified public accountants of
recognized integrity and ability. The district shall pay for the
audit.

(b) The board shall deliver a copy of the audit to the
commissioners court of each county in the district. The board
shall keep one copy of the audit at the district office, open to
inspection by any interested person during normal office hours.

SECTION 42. DEPOSITORY BANKS. (a) The board shall
designate one or more banks within the district to serve as
depository for the funds of the district. Except as provided by
Subsection (b) of this section, all funds of the district shall be
deposited in a depository bank.

(b) To the extent provided in a trust indenture, bond
proceeds and funds pledged to pay bonds may be deposited with the
trustee bank named in the trust indenture and shall be remitted to
the bank of payment for the payment of the principal of and
interest on the bonds.
(c) To the extent that funds in a depository bank or a trustee bank are not invested or insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

(d) Before designating a depository bank, the board shall issue a notice stating the time and place the board will meet for that purpose and shall invite the banks in the district to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. The board shall publish the notice once in a newspaper of general circulation in the district or mail a copy of the notice to each bank in the district.

(e) The board shall consider the management and condition of the banks that apply and shall designate as depositories the bank or banks that offer the most favorable terms and conditions for handling of the funds of the district and that the board finds have proper management and are in condition to warrant handling of district funds.

(f) Membership on the board of an officer or director of a bank does not disqualify the bank from being designated as depository.

(g) If no applications are received before the meeting, the board shall designate a bank or banks within or outside the district on terms and conditions it finds advantageous to the district.

SECTION 43. PENALTIES. (a) If a person has violated, is violating, or is threatening to violate a provision of this Act or
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1 a rule, regulation, permit, or other order of the district, the
2 district may bring a civil action in a district court within the
3 district for an injunction to restrain the person from continuing
4 the violation or the threat of violation, for a civil penalty of
5 not less than $50 nor more than $5,000 for each violation and for
6 each day of violation, or for both injunctive relief and civil
7 penalty.

8 (b) At the request of the district, or the general manager
9 authorized by the board, the attorney general shall institute the
10 action. However, the district in its sole discretion may employ
11 attorneys of its choice to institute the action.

12 (c) The board is not required to post bond or other security
13 with the court under this section.

14 (d) On application for injunctive relief and a finding that
15 a person is violating or threatening to violate any provision of
16 this Act or any rule, permit, or other order of the district, the
17 district court shall grant any injunctive relief the facts may
18 warrant.

SECTION 44. LEGISLATIVE FINDING OF AUTHORITY. The
legislature finds that the requirements of Article XVI, Sections
59(d) and (e), of the Texas Constitution have been performed and
accomplished and that the legislature has the power and authority

to enact this Act.

SECTION 45. EMERGENCY. The importance of this legislation
and the crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.
A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District; providing for civil penalties.

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

SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act is to provide for the regulation of the withdrawal of groundwater within the district created by this Act to prevent subsidence that contributes to or precipitates flooding, inundation, or overflow of areas within the district, including rising waters resulting from storms or hurricanes.

(b) It is the intent of the legislature that the district created by this Act shall administer and enforce the terms of this Act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of this Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Person" includes a corporation, individual, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(2) "District" means the Fort Bend Subsidence District.

(3) "Board" means the board of directors of the Fort
Bend Subsidence District.

(4) "Groundwater" means water existing below the earth's surface within the district, but does not include water produced with oil in the production of oil and gas.

(5) "Well" means a facility, device, or method used to withdraw groundwater.

(6) "Withdraw" means the act of extracting groundwater by pumping or some other method.

(7) "Drill" means drilling, equipping, or completing wells or substantially altering the size of wells or well pumps.

(8) "Subsidence" means the lowering in elevation of the surface of land by the withdrawal of groundwater.

(9) "Commission" means the Texas Water Commission.

SECTION 3. CREATION. Under Article XVI, Section 59, of the Texas Constitution a conservation and reclamation district is created to be known as the Fort Bend Subsidence District. The district is a governmental agency, a political subdivision of the state, and a body politic and corporate.

SECTION 4. BOUNDARIES. (a) The district includes all of the territory within Fort Bend County.

(b) An adjoining county may be added to the district on application of the commissioners court of the adjoining county and compliance with the applicable provisions of Sections 55.730-55.744, Water Code.

(c) The proposition on the ballots for an election to add an adjoining county to the district shall be printed to permit voting for or against the proposition: "Addition of _________ County to
the Fort Bend Subsidence District."

(d) A county added to the district under this section is subject to the jurisdiction of the board and this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 13 directors.

(b) One director from each of the following cities in Fort Bend County shall be appointed by the mayor of the respective city:

(1) Houston;
(2) Missouri City;
(3) Stafford;
(4) Sugar Land;
(5) Rosenberg; and
(6) Richmond.

(c) The Commissioners Court of Fort Bend County shall appoint two directors who represent agricultural interests and live in an unincorporated area, two directors who represent industrial interests, and two directors who represent business interests.

(d) One director shall be appointed by the mayors of the incorporated cities within the county not listed in Subsection (b) of this section.

(e) If an adjoining county is added to the district, four members shall be added to the board. Two members shall be chosen by the commissioners court of the county added to the district. One member each shall be chosen by the mayors of the two cities in the county added to the district that have the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered terms of office.
(f) All directors must be residents of and qualified voters in the district.

(g) The county judge of Fort Bend County shall set a date, time, and place for a meeting of the persons designated in Subsections (b), (c), and (d) of this section to choose the initial directors. The county judge shall choose a date not later than the 30th day after the effective date of this Act. The county judge shall mail notices of the meeting to the persons designated to choose the directors. The county judge shall appoint a person to preside at the meeting. The directors chosen at the meeting shall assume their positions not later than the fifth day after the date of the meeting.

(h) Selection of subsequent directors shall be made on the second Monday in January at 11 a.m. in the district's main office. Not later than the 20th day before the date of the meeting, the district shall mail notice of the meeting to the persons designated in Subsections (b), (c), (d), and (e) of this section to choose directors.

(i) The terms of office for the initial directors shall be as follows:

(1) five members chosen under Subsection (b) of this section and four members chosen under Subsection (c) of this section shall serve for terms expiring January 31, 1991; and

(2) one member chosen under Subsection (b) of this section, two members chosen under Subsection (c) of this section, and the member chosen under Subsection (d) of this section shall serve for terms expiring January 31, 1990.
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(j) Except as provided by Subsection (i) of this section, members of the board shall serve for terms of two years.

(k) At the time the county judge of Fort Bend County sets the meeting required by Subsection (g) of this section, the county judge shall set the date, time, and place for the initial meeting of the board. Not later than the 20th day before the date of the initial meeting of the board, the county judge shall mail notices of the meeting to the initial directors.

(l) At the initial meeting of the board and each year at the first meeting after new directors take office, the directors shall select a chairman, a vice-chairman, and a secretary. The chairman, vice-chairman, and secretary shall serve at the pleasure of the board and may be removed and replaced by a majority of the board at any time.

(m) The chairman shall preside over meetings of the board. If the chairman is not present, the vice-chairman shall preside.

(n) Each director is entitled to receive $50 a day for each day he is engaged in the exercise of his duties under this Act and necessary travel and other expenses incurred in the exercise of his duties under this Act. A member of the board may not receive compensation and travel and other expenses for more than 120 days in any one calendar year.

(o) If a vacancy occurs on the board, the person or persons designated in Subsection (b), (c), (d), or (e) of this section to appoint a director for the position that is vacated shall appoint a director to serve the unexpired term.

(p) Each director shall take the oath of office prescribed
by law for county commissioners and shall execute a bond in the
amount of $5,000, payable to the district, conditioned on the
faithful performance of his duties. The district shall pay for the
bond.

(q) A majority of the directors constitute a quorum for
transaction of business of the district. An official act of the
board is not valid without the affirmative vote of a majority of
the directors.

(r) The board shall hold one regular meeting each month at a
time set by the board. The board may hold special meetings at the
call of the chairman or on the written request of at least three
directors.

SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board
shall administer this Act as provided by Section 1 of this Act.

(b) Withdrawals of groundwater covered by this Act are
subject to reasonable rules, regulations, and orders adopted by the
board.

(c) In adopting rules, regulations, and orders, the board
shall consider the following factors:

(1) availability of surface water;
(2) economic impact on persons and the community;
(3) degree and effect of subsidence on the surface of
the land; and
(4) differing topographical and geophysical
characteristics of the land.

(d) The board has all other powers necessary or convenient
to carry out its responsibilities and achieve the purpose of this
SECTION 7. GENERAL MANAGER. (a) The board may employ a general manager who shall be the chief administrative officer of the district. The board may delegate to the general manager the authority to manage and operate the affairs of the district subject only to orders of the board.

(b) The duties of the general manager include:

1. administration of the orders of the board;
2. coordination with state, federal, and local agencies;
3. supervision of the development of plans and programs of the district;
4. preparation and submission of the annual budget to the board; and
5. other duties assigned by the board.

(c) The general manager shall execute a bond in an amount determined by the board, payable to the district, conditioned on the faithful performance of his duties. The district shall pay for the bond.

(d) The district may contract with any person to perform the duties of general manager.

SECTION 8. EMPLOYEES. (a) The board shall employ personnel necessary for the proper handling of the business and operation of the district and may employ attorneys, bookkeepers, engineers, and other expert and specialized personnel that are considered necessary. The board shall determine the compensation to be paid by the district to the employees.
(b) The board shall determine the term of office of and the compensation to be paid to the general manager. The board may discharge the general manager by a majority vote. The board may discharge employees of the district.

(c) The board shall require an employee who collects, pays, or handles funds of the district to furnish good and sufficient bond, payable to the district, for a sufficient amount to safeguard the district. The bond shall be conditioned on the faithful performance of the employee's duties and on accounting for all funds and property of the district under the employee's control. The district shall pay for the bond.

SECTION 9. DISTRICT OFFICE. The board shall maintain its principal office for conducting the business of the district. The office must be located inside the district.

SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district shall keep a true and complete account of the board's meetings and proceedings and shall preserve the board's minutes, contracts, records, notices, accounts, and receipts in a fireproof vault or safe. The board's minutes, contracts, records, notices, accounts, and receipts are the property of the district and are subject to public inspection.

SECTION 11. SUITS. The district may sue and be sued in the courts of this state in the name of the district by and through the board. If requested by the district, the attorney general shall represent the district in the district and appellate courts of this state and in the courts of the United States. The board, in its sole discretion, may employ attorneys to represent the district in
the district and appellate courts of this state and in the courts of the United States. All courts shall take judicial notice of the creation of the district and of its boundaries.

SECTION 12. SEAL. The board shall adopt a seal.

SECTION 13. RULES AND REGULATIONS. (a) After notice and hearing under Section 14 of this Act, the board shall adopt and enforce rules and regulations that are designed to expeditiously and effectively accomplish the provisions and purposes of this Act, including rules governing procedure before the board.

(b) The board shall compile its rules and regulations in a book and make the book available for use and inspection at the district's principal office. The district shall provide copies of its rules and regulations on payment of the cost of reproduction.

SECTION 14. HEARINGS. (a) At regular meetings of the board, the board shall set the dates, times, and locations for hearings to be held under this Act.

(b) Not later than the 20th day before the date set for a hearing, the district shall deliver or mail notice of the hearing under this section to each county and municipal government within the district and to each person that the board believes has an interest in the subject matter to be dealt with at the hearing.

(c) Not later than the 20th day before the date set for a hearing, the district shall publish notice of the hearing under this section once in a newspaper of general circulation in each county within the district.

(d) Not later than the 20th day before the date set for a hearing, the district shall post the notice of the hearing under
this section at the county courthouse of each county within the

district in the place where notices are usually posted.

(e) Any person who desires to appear at a hearing and

present testimony, evidence, exhibits, or other information may do

so in person, by counsel, or both.

(f) The board may hold hearings at any location within the

district.

(g) The board may recess a hearing from day to day.

(h) The board may use hearing examiners to hear any subject

set for the hearing. Procedures for use of hearing examiners shall

be provided in the rules and regulations.

SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND

SUBPOENAS. The board may subpoena a person to testify if the

person's testimony is necessary to carry out the powers, duties,

and functions of the board under this Act. The board may

administer oaths to persons who testify before the board. The

board may subpoena documents if the documents are necessary to

carry out the powers, duties, and functions of the board under this

Act. On application of the board, a district court shall enforce

the subpoena in the same manner as a subpoena issued by the court.

SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this

Act, the board shall formulate a plan to control and mitigate

subsidence within the district. The plan shall accomplish this

purpose by the regulation of groundwater withdrawals to maintain

sufficient artesian pressure to control and mitigate subsidence.

(b) The plan shall specify, in as much detail as

practicable, the acts, procedures, performance, and avoidance that
are necessary to carry out the purposes of this Act.

(c) When formulating the plan, the board shall compile and consider:

(1) a list of wells in the district that will be subject to regulation under this Act;

(2) an accurate estimate of groundwater production from each well or proposed well in the district;

(3) an accurate estimate of the amount of groundwater that may be produced from each well and each area in the district without causing long-term static water level decline and reduction of artesian pressure that will lead to subsidence within the district;

(4) an accurate estimate of the current and future water needs of each well owner in the district;

(5) an accurate estimate of the groundwater production capacity of each well in the district;

(6) a list of all available sources of water in the district other than groundwater;

(7) the purpose for which the water is currently used and for which it is proposed to be used in the future;

(8) information relating to formulation of a permit system; and

(9) other information necessary to carry out the management of groundwater in the district and to effectively and expeditiously accomplish the purposes of this Act.

(d) The plan shall be formulated not later than 12 months after the effective date of this Act.
(e) Not later than the 60th day after the date the plan is formulated, the board shall review and adopt the plan.

(f) Before the plan is adopted, the board shall hold a hearing under Section 14 of this Act to consider the proposed plan.

(g) After the hearing, the board shall make any changes it considers necessary based on evidence and material presented at the hearing and shall adopt the plan.

(h) The plan adopted under this section may be amended or repealed. A new plan may be adopted in the manner provided in this section for the adoption of the original plan. A plan, once adopted, shall remain in effect until the adoption of a new plan.

SECTION 17. TEMPORARY REGULATION. During the period that the board is formulating and adopting the plan under Section 16 of this Act, the board shall adopt temporary rules and regulations relating to the withdrawal of groundwater that are necessary to control subsidence.

SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well located in the district must obtain a permit from the board to withdraw groundwater.

(b) Owners of wells operating or being drilled on the effective date of this Act must apply for a permit before January 1, 1990, and may continue to operate the well without a permit until the application for a permit for the well is acted on by the board.

(c) A permit issued under this Act is valid for a term of one year from the date it is issued unless a longer or shorter term is specified by the board. The board may issue a permit for a term
not to exceed five years in order to aid the district in the
effective and expeditious performance of its duties if issuance of
the permit does not impair the ability of the district to control
and prevent subsidence within the district.

(d) A permit may be revoked, suspended, modified, or amended
after notice and public hearing under Section 14 of this Act
whenever reasonably necessary to accomplish the purposes of this
Act.

(e) Permits may be renewed in the same manner as permits are
issued.

(f) To obtain a permit, a person must submit an application
and an application fee to the board. The application must state:
(1) the person's name;
(2) the person's address;
(3) the location and wellhead elevation of the well or
proposed well;
(4) the amount of water being produced or proposed to
be produced; and

(5) any other information required by the board as
necessary for the board to control and prevent subsidence in the
district.

(g) The board shall use the application fee to process
applications.

SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board
shall hold a hearing on each application.

(b) Not later than the 20th day before the date set for the
hearing, the board shall notify the applicant by certified mail,
return receipt requested, of the date, time, and location of the hearing.

(c) Except as provided by this section, the hearing shall be conducted and notice of hearing given under Section 14 of this Act.

(d) The board may consider as many applications for permits as it considers necessary at a hearing.

SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the 35th day after the date of the hearing, the board shall decide whether or not to issue a permit and shall formulate the terms of the permit, if issued.

(b) In deciding whether or not to issue a permit and in setting the terms of the permit, the board shall consider:

(1) the purpose of this Act;
(2) the district plan;
(3) the quality, quantity, and availability of surface water at prices competitive with those charged by suppliers of surface water within the district; and
(4) the economic impact on the applicant of granting or denying the permit or of the terms prescribed by a permit in relation to the effect on subsidence that would result.

(c) The board shall grant a permit to an applicant whenever the board finds on sufficient evidence that:

(1) there is no other adequate and available substitute or supplemental source of surface water at prices competitive with those charged by suppliers of surface water within the district; and
(2) compliance with any provision of this Act, or any
rule or regulation of the district, will result in an arbitrary
taking of property or in the practical closing and elimination of
any lawful business, occupation, or activity, without sufficient
corresponding benefit or advantage to the people.
(d) If the board decides to issue the permit, the permit
must state the terms prescribed by the board.
(e) The permit must include the following:
(1) the name and address of the permittee;
(2) the location of the well;
(3) the date the permit begins and the date the permit
expires;
(4) conditions and restrictions placed on the
withdrawal of groundwater;
(5) adoption of water conservation measures for the
purpose of preventing waste of groundwater, including educational
programs; and
(6) any other terms and conditions necessary to
control and prevent subsidence.
SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under
this Act is not transferable unless the permittee and new owner
notify the district by certified mail, return receipt requested, of
the transfer of ownership of the well and provide the name and
address of the new owner. On receipt of that information, the
district shall issue an amended permit with the new owner of the
well as permittee. The remaining terms of the permit shall remain
unchanged.
SECTION 22. ANNUAL REPORTS. Before January 31 of each year,
each owner of a well who holds a permit under this Act shall submit
a report to the board stating the following:

(1) the person's name;
(2) the location of the well;
(3) the total amount of groundwater produced by the
well during the immediately preceding 12-month period;
(4) the total amount of groundwater produced by the
well during each separate month of the immediately preceding
12-month period;
(5) the purpose for which the groundwater was used;
(6) the date the permit expires; and
(7) any other information required by the board as
necessary for the board to control and prevent subsidence within
the district.

SECTION 23. BOARD INVESTIGATIONS. At least once each year
and at any other time that the board considers necessary, the board
may have its staff make a complete study of the groundwater
situation within the district and determine the water level, rates
of withdrawal, amounts of withdrawal, and other information
relating to the withdrawal of groundwater that may affect the
subsidence of land within the district.

SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.
(a) Before March 31 of each year, the board shall hold a hearing
under Section 14 of this Act to determine the effects during the
preceding calendar year of groundwater withdrawal on the subsidence
of land within the district.

(b) At the hearing, the board shall consider the annual
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reports submitted under Section 22 of this Act and the
investigation made under Section 23 of this Act in addition to
information represented by persons appearing before the board.

(c) After the hearing, the board shall consider all the
information presented to it and shall determine the groundwater
withdrawal in the district during the preceding calendar year and
shall make findings of the effects of groundwater withdrawal during
that year on the subsidence of land within the district. A report
of the board’s findings and determinations shall be made available
for examination by any interested person.

SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
order to minimize as far as practicable the drawdown of the water
table and reduction of artesian pressure and to control and prevent
subsidence, the board may provide for the spacing of wells and
regulate the production of groundwater from the wells, taking into
consideration any relevant factors, including the economic impact
on well owners and the resulting effect on subsidence.

(b) Before issuing any rule, regulation, or order under this
section, the board shall set a hearing on the proposed rule,
regulation, or order and issue notice of the hearing. Notice must
be given and hearings conducted in the manner provided in Section
14 of this Act.

SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
adopt orders after notice and hearing under Section 14 of this Act
requiring water-metering devices to be placed on wells.

SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
and other investigations necessary to the implementation of this
Act, the board and its agents and employees are entitled to access to all property within the district.

(b) Before entering property for the purposes stated in Subsection (a) of this section, the person seeking access shall give notice to the owner of the property in the manner provided by the rules and regulations of the district and shall present proper credentials.

(c) The board, and its agents and employees who enter private property, shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.

SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The district may use subsidence compaction monitors, water level observation wells, and other materials and equipment to determine the amount of groundwater that may be produced while allowing the rebound and stabilization of groundwater to a level that will halt subsidence.

SECTION 29. RESEARCH AND STUDIES. The board may conduct studies and research that it considers necessary to implement this Act. The board may use the services of geologists, hydrologists, registered professional engineers, or other expert personnel to accomplish the purposes of this section.

SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER GOVERNMENTAL ENTITIES. The board may cooperate with and request the assistance of the Texas Water Development Board, the commission, the United States Geological Survey, local governments, and other agencies of the United States and the State of Texas in
implementing this Act.

SECTION 31. CONTRACTS. The board may enter into contracts with any person to carry out this Act.

SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT.

(a) A person who is adversely affected by a rule, regulation, order, or other official action of the board may appeal to a district court in any county in the district.

(b) For the purposes of this section, "a person who is adversely affected" includes a person residing in or owning real property in the district whose residence or real property is subsiding. An appeal under this section must be filed not later than the 45th day after the date the rule, regulation, order, or other official action appealed from is promulgated.

(c) On written request of a person who is adversely affected, the board shall make written findings and conclusions with respect to a rule, regulation, order, or other official action of the district. Not later than the 35th day after the request was made, the board shall provide a certified copy of the findings and conclusions to the person who made the request.

(d) In appeals taken under this section, the substantial evidence rule shall be used to determine the legal propriety of a rule, regulation, order, or other action of the board.

SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE COMMISSION. (a) As an alternative to the appeal provided by Section 32 of this Act, a person who is granted a permit authorizing withdrawal of groundwater in an amount less than requested by that person may appeal the board’s final decision to
the commission. The appeal shall be filed not later than the 60th
day after the date of the final order of the board.
(b) On written request of the person proposing to appeal an
order under Subsection (a) of this section, the board shall make
written findings and conclusions with respect to the order and
shall provide certified copies of the findings and conclusions to
the person making the request not later than the 35th day after the
date on which the written request is submitted to the board.
(c) The effect of a board order is stayed until the decision
of the commission in an appeal under this section is final.
(d) The review on appeal to the commission under this
section is governed by the substantial evidence rule as provided by
Section 19(e), Administrative Procedure and Texas Register Act
(Article 6252-13a, Vernon's Texas Civil Statutes).
(e) The commission may adopt necessary rules to carry out
the provisions of this section.
(f) An appeal from a final decision of the commission is to
a district court in Travis County and is governed by the
substantial evidence rule. Any party to the proceedings before the
commission may appeal a decision of the district court in the
manner provided for other civil actions, but a party appealing a
decision of a district court is not required to provide an appeal
bond.
(g) Under this section, the commission may adopt and assess
reasonable and necessary fees adequate to recover the costs of the
commission in administering this section.

SECTION 34. PERMIT FEE. (a) At the time a permit is issued
or renewed, the board shall collect from the permittee a permit
fee, established by schedule, based on the term of the permit and
the maximum amount of groundwater authorized by the board to be
withdrawn annually from the well.
(b) The fee schedule shall be determined by the board after
a hearing under Section 14 of this Act.
(c) The board shall use the funds obtained from permit fees
to cover the costs of issuing permits and performing other
functions under this Act.
SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On
behalf of the district, the board may:
(1) purchase, lease, own, convey, and dispose of
property both inside and outside the district necessary or
convenient to the exercise of the powers, duties, and functions of
the board under this Act;
(2) accept grants, gifts, and devises of property;
(3) construct, purchase, lease, or acquire in some
other manner any material or property necessary to carry out this
Act; and
(4) accept gifts, grants, loans, or other
distributions of money.
SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and
rights of the owner of land and his lessees and assigns in
groundwater are recognized and nothing in this Act shall be
construed as depriving or divesting the owner or his lessees and
assigns of the ownership or rights, subject to rules and
regulations and orders and other official actions of the district.
SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and
administrative rules relating to the use of surface water do not
apply to groundwater.

SECTION 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. The
district may not sell or distribute surface water or groundwater
for any purpose.

SECTION 39. EXCLUSIONS. This Act does not apply to:

(1) wells regulated under Chapter 27, Water Code;

(2) shallow wells producing water solely to prevent
hazardous sand boils, dewater surface construction sites, or
relieve hydrostatic uplift on permanent structures and not used to
provide water for human consumption, agricultural use,
manufacturing or industrial use, or water injection;

(3) shallow wells producing water solely for
groundwater quality analysis and for monitoring migration of
subsurface contaminants or pollution and not used to provide water
for human consumption, agricultural use, manufacturing or
industrial uses, or water injection;

(4) shallow wells producing water solely for recovery
of contamination or pollution and not used to provide water for
human consumption, agricultural use, manufacturing or industrial
use, or water injection;

(5) persons owning only one well within the district
if the well has a casing with an inside diameter of five inches or
less; and

(6) on application for an exemption on a form
prescribed by the board, other wells with a casing that has an
inside diameter of five inches or less that serve a single-family
dwelling and have a negligible effect on subsidence within the
district.

SECTION 40. DISBURSEMENT OF FUNDS. The district's money may
be disbursed by check, draft, order, or other instruments, signed
by the person or persons authorized to do so by the board's bylaws
or by resolution of the board.

SECTION 41. ACCOUNTS AND INDEPENDENT AUDIT. (a) The
district shall keep a complete system of accounts and shall have
its affairs audited each year by an independent certified public
accountant or a firm of independent certified public accountants of
recognized integrity and ability. The district shall pay for the
audit.

(b) The board shall deliver a copy of the audit to the
commissioners court of each county in the district. The board
shall keep one copy of the audit at the district office, open to
inspection by any interested person during normal office hours.

SECTION 42. DEPOSITORY BANKS. (a) The board shall
designate one or more banks within the district to serve as
depository for the funds of the district. Except as provided by
Subsection (b) of this section, all funds of the district shall be
deposited in a depository bank.

(b) To the extent provided in a trust indenture, bond
proceeds and funds pledged to pay bonds may be deposited with the
trustee bank named in the trust indenture and shall be remitted to
the bank of payment for the payment of the principal of and
interest on the bonds.
(c) To the extent that funds in a depository bank or a trustee bank are not invested or insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

(d) Before designating a depository bank, the board shall issue a notice stating the time and place the board will meet for that purpose and shall invite the banks in the district to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. The board shall publish the notice once in a newspaper of general circulation in the district or mail a copy of the notice to each bank in the district.

(e) The board shall consider the management and condition of the banks that apply and shall designate as depositories the bank or banks that offer the most favorable terms and conditions for handling of the funds of the district and that the board finds have proper management and are in condition to warrant handling of district funds.

(f) Membership on the board of an officer or director of a bank does not disqualify the bank from being designated as depository.

(g) If no applications are received before the meeting, the board shall designate a bank or banks within or outside the district on terms and conditions it finds advantageous to the district.

SECTION 43. PENALTIES. (a) If a person has violated, is violating, or is threatening to violate a provision of this Act or
H.B. No. 2819

1 a rule, regulation, permit, or other order of the district, the
2 district may bring a civil action in a district court within the
3 district for an injunction to restrain the person from continuing
4 the violation or the threat of violation, for a civil penalty of
5 not less than $50 nor more than $5,000 for each violation and for
6 each day of violation, or for both injunctive relief and civil
7 penalty.

8 (b) At the request of the district, or the general manager
9 authorized by the board, the attorney general shall institute the
10 action. However, the district in its sole discretion may employ
11 attorneys of its choice to institute the action.

12 (c) The board is not required to post bond or other security
13 with the court under this section.

14 (d) On application for injunctive relief and a finding that
15 a person is violating or threatening to violate any provision of
16 this Act or any rule, permit, or other order of the district, the
17 district court shall grant any injunctive relief the facts may
18 warrant.

SECTION 44. LEGISLATIVE FINDING OF AUTHORITY. The
19 legislature finds that the requirements of Article XVI, Sections
20 59(d) and (e), of the Texas Constitution have been performed and
21 accomplished and that the legislature has the power and authority
22 to enact this Act.

SECTION 45. EMERGENCY. The importance of this legislation
24 and the crowded condition of the calendars in both houses create an
25 emergency and an imperative public necessity that the
26 constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.
April 19, 1989

The Honorable Terral Smith
Chairman, Committee on Natural Resources
House of Representatives
Austin, Texas

Dear Mr. Chairman:

In response to your request for an Author's Fiscal Statement on HB 2819 relating to the creation, powers, duties, administration and operations of the Fort Bend County Subsidence District, I have determined the following:

The costs to local governments for the creation of this district appear to be minimal. Each of the member cities may incur slight administrative costs for processing the mayoral appointments to the board of directors.

The costs to the district of developing a management plan, adopting temporary rules and conducting hearings will be financed by permit fees, as well the ongoing operating costs of the districts.

FISCAL YEAR PROJECTIONS

1990...Minimal
1991...same as 1990 anticipated
1992...same as 1990 anticipated

Please let me know if I can provide further information to you.

Sincerely,

Jim Tallas

JT/rc

COMMITTEES: State Affairs, Chairman of
Budget and Oversight
Appropriations
Calendars
The Honorable Gib Lewis  
Speaker of the House of Representatives  
P.O. Box 2910  
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen Beinke  
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives  
Ms. Betty King, Secretary of the Senate  
Representative Terral Smith, Chairman, House Natural Resources Committee  
Senator Bill Sims, State Senate  
Representative Jim Tallas, House of Representatives
TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATED TO THE FORT BEND
SUBSIDENCE DISTRICT

Water Development Policy Impact Statements for House Bill 2819 (H.B. 2819)
relating to the creation, administration, powers, duties, operation, and financing
of the Fort Bend Subsidence District follow.

Wells located within the limits of this proposed district which covers all of Fort
Bend County, utilize the Gulf Coast aquifer. During the period from 1975-1985,
excessive water-level declines occurred primarily in the southeastern one-half of
the county, with up to 40 feet of water-table decline taking place. During this
same time, between 50-100 feet of artesian decline also occurred in the
north-central part of the county. Excessive pumpage with its associated
water-level declines, triggers land-surface subsidence. This is hydrogeologic
justification for the district. The Harris-Galveston Coastal Subsidence District
which encompasses all of Harris and Galveston Counties, adjoins the proposed
district on the northeast. Fort Bend County lies within a state designated
critical area.

H.B. 2819 provides for the regulation of the withdrawal of groundwater within the
district to prevent subsidence which contributes to or precipitates flooding,
inundation, or overflow of areas, including rising waters resulting from storms or
hurricanes. The district shall exercise its rights, powers, and duties in a
manner which will effectively and expeditiously accomplish the purpose of the act.
The district is proposed to be created under Article XVI, Section 59, of the Texas
Constitution and as a conservation and reclamation district. Specific impact
statements related to required headings follow:

1) Population projections - The proposed District is coterminal with the
boundaries of Fort Bend County. The Board's current projected

- 1 - 3
population for Fort Bend County indicates an anticipated increase in population ranging from 154,831 to 208,720 over the next 20 years.

2) **District finances** - The district shall collect from a permittee (owner of a well other than specific types which are excluded) a permit fee, established by a schedule set by the board following a hearing, based on the term of the permit (one to five years) and the maximum amount of ground water authorized to be withdrawn annually from the well. Permit fee funds obtained shall be used to cover the costs of issuing permits and performing other district functions. The district may also accept grants, gifts, devises of property (which it may dispose of), and other distributions of money.

3) **Board of directors & powers** - This proposed district is to be governed by a board of 13 directors. Six of these are to be composed of one director each from the cities of Houston, Missouri City, Stafford, Sugar Land, Rosenberg, and Richmond who are to be appointed by the mayor of the respective cities. Five of these shall serve terms expiring January 31, 1991. One member's term shall expire January 31, 1990. Two directors representing agricultural interests who live in an unincorporated area, and four directors (two each) will represent industrial and business interests. Four of the six shall serve terms expiring January 31, 1991. The terms of the other two shall expire January 31, 1990. Additionally, one director will be appointed by all of the mayors of the other incorporated cities of the county. Except as provided for the one city member and two agricultural, industrial, or business members whose terms expire in January 31, 1989, the rest shall serve terms of two years. In the event an adjoining county is added to the district, four additional members will be added to the board. Two of these members will be chosen by the commissioners court of the affected county and one member each will be chosen by the mayors of the two cities of the affected county having the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered two year terms.
Since the bill creates a ground-water subsidence district under Article XVI, Section 59 of the Texas Constitution, and powers relating to Chapters 50, 51, and 52 of the Texas Water Code are not included, its powers are limited to those specifically set out in the bill. The bill requires that the board shall administer this act to provide for the regulation of the withdrawal of ground water within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall administer and enforce the terms of this act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of the act. Specifically, the district shall control the withdrawals of ground water with reasonable rules, regulations, and orders. These shall consider: 1) availability of surface water, 2) the economic impact on the community, 3) the degree and effect of subsidence on the surface of the land, 4) differing topographical and geophysical characteristics of the land, and 5) the board has all other powers necessary or convenient to carry out its responsibilities and achieve the act's purposes.

The district may sue and be sued in the courts in the name of the district by and through the board. The board may employ attorneys to represent the district in district and appellate courts of the state and in the courts of the United States. The district may hold hearings to receive testimony, evidence, exhibits, and other information. The board has the power to subpoena a person or documents and to enforce the subpoena. It also has the power to administer oaths necessary to carry out the powers, duties, and functions of the board.

The board is empowered to formulate a plan within 12 months to control and prevent subsidence; adopt temporary rules during plan development; require well permits for one to five years and revoke, suspend, or modify these permits; to conduct required hearings; prepare annual reports relating to the number of wells and their respective pumping; make annual studies of the ground-water situation including determination of the effects of ground-water withdrawal on subsidence;
regulate well spacing and pumpage; require metering devices; access property to conduct investigations; use monitoring devices to determine water-level declines and land-surface compaction; to cooperate with and obtain assistance from other governmental entities; to conduct research and studies; to enter into contracts with any person; disburse funds; and to assess penalties for violations of district regulations.

The district's powers do not apply to surface water and it may not sell or distribute surface or ground water. The act also recognizes private ownership of ground water. Additionally, the district may not control certain types of wells specifically set out in the bill. These include wells with a casing having an inside diameter of five inches or less that serve a single-family dwelling which have a negligible effect on subsidence.

4) **Effect on Texas Water Development Board's water plan** - The Board finds that creation of a proposed subsidence control district is consistent with the State Water Plan objective of local control of groundwater to prevent the effects of subsidence in southeastern Texas. The Board has provided regional water supply planning grant assistance to improve the management of groundwater and promote conversion to surface water supplies in most of Fort Bend County, and the results of the Board-funded planning projects indicate a need to better manage groundwater resources in the area.

5) **Texas Water Commission's supervision** - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Sections 50.001 through 50.106, Texas Water Code.

6) **Eminent domain power** - This district does not have this power.
7) Exclusion of land from district - This bill contains no specific provisions for the exclusion of land from the district; however, Section 4 of the bill sets out the procedure for adding adjoining counties to the district.

8) Adequacy of the boundary description - The district includes all of the area located within Fort Bend County, therefore, the boundary description is adequate. At present there are a total of 125 water-related districts in existence within the county. Additionally, there are four municipal utility districts on which a hearing is pending. A breakout of those districts now in existence, by category, are as follows: 108 municipal utility, 10 levee improvement/flood control, 6 water control and improvement, and 1 drainage. These are all located in the northern one-half of the county and north of the community of Pleak. Many of the municipal utility districts undoubtedly have wells which would be required to be permitted, subjected to regulation of spacing and production, and would be required to pay a permit fee based on the term of the permit and the maximum amount of ground water authorized to be withdrawn annually from the well.

9) Comments on powers and duties different from similar types of districts
This district has the normal powers and duties accorded to a subsidence district and the bill goes into great detail on its operation. The bill requires the formulation and review of a management plan within the brief period of 12 months after the effective date of the bill. This does not allow sufficient time for this project. Since the district may contract with any person to perform the duties of general manager and it may enter into contracts with any person, this may allow it to contract with the Harris-Galveston Coastal Subsidence District for general management services and the development of the required management plan.

For clarification of the bill, the following changes are recommended: a) on page 7, lines 22 and 26, the word "board" should be changed to general manager; b) on page 10, lines 22 and 25, the word "prevent" should be changed to mitigate; and c) on page 11, line 10, the phrase
"drawdown of the water table" should be changed to long-term static water-level decline.
April 19, 1989

The Honorable William P. Clements, Jr.
Governor of Texas

The Honorable William P. Hobby
Lieutenant Governor and President of the Senate

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Governor Clements:

The following attachment is submitted in response to the above-referenced constitutional requirements. Items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen P. Beinke
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King, Secretary of the Senate
Representative Terral Smith, Chairman,
House Natural Resources Committee
Speaker of the House Gib Lewis, House of Representatives
Senator H. Tati Santiesteban, Chairman,
Senate Natural Resources Committee
Senator Bill Sims, State Senate
Representative Jim Tallas, House of Representatives
REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

Hon. Bill Sims, Chairman
Administration Committee

Sir:

Notice is hereby given that HB 2841, by: , was heard by the Committee on Natural Resources on 5/22/1989 and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Clerk of the reporting committee

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE BILL OR RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE COMMITTEE ON ADMINISTRATION, ROOM 419. PLEASE CALL 3-0350 IF YOU HAVE ANY QUESTIONS. DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS 5:00 P.M. FRIDAY.

Paper clip the original to the bill; retain one copy for reporting committee files; deliver one copy to the bill sponsor.
SENEG FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

Sir:

We, your Committee on NATURAL RESOURCES to which was referred HB 2519 by TALLAS have on 5-22-89, 19, had the same hearing date under consideration and I am instructed to report it back with the recommendation (s) that it

✓ do pass and be printed

( ) do pass and be ordered not printed

✓ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. (✓ yes ( ) no

A revised fiscal note was requested. ( ) yes ( ) no

An actuarial analysis was requested. ( ) yes ( ) no

Considered by subcommittee. ( ) yes ( ) no

Senate Sponsor of House Measure BROWN

The measure was reported from Committee by the following vote:

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COMMITEE CLERK

CHAIRMAN

Paper clip the original and one copy of this form to the original bill and retain one copy for your file.
By: Tallas (Senate Sponsor - Brown)  H.B. No. 2819
(In the Senate - Received from the House  May 17, 1989;
May 18, 1989, read first time and referred to Committee on Natural
Resources; May 23, 1989, reported favorably by the following vote:
Yeas 7, Nays 0; May 23, 1989, sent to printer.)

COMMITTEE VOTE

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A BILL TO BE ENTITLED
AN ACT

relating to the creation, administration, powers, duties, and
operations of the Fort Bend Subsidence District; providing for
civil penalties.

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

SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act
is to provide for the regulation of the withdrawal of groundwater
within the district created by this Act to prevent subsidence that
contributes to or precipitates flooding, inundation, or overflow of
areas within the district, including rising waters resulting from
storms or hurricanes.
(b) It is the intent of the legislature that the district
created by this Act shall administer and enforce the terms of this
Act and shall exercise its rights, powers, and duties in a manner
that will effectively and expeditiously accomplish the purposes of
this Act.

SECTION 2. DEFINITIONS. In this Act:
(1) "Person" includes a corporation, individual,
organization, government, governmental subdivision or agency,
business trust, estate, trust, partnership, or association, and any
other legal entity.
(2) "District" means the Fort Bend Subsidence
District.
(3) "Board" means the board of directors of the Fort
Bend Subsidence District.
(4) "Groundwater" means water existing below the
earth's surface within the district, but does not include water
produced with oil in the production of oil and gas.
(5) "Well" means a facility, device, or method used to
withdraw groundwater.
(6) "Withdraw" means the act of extracting groundwater
by pumping or some other method.
(7) "Drill" means drilling, equipping, or completing
wells or substantially altering the size of wells or well pumps.
(8) "Subsidence" means the lowering in elevation of
the surface of land by the withdrawal of groundwater.

SECTION 3. CREATION. Under Article XVI, Section 59, of the
Texas Constitution a conservation and reclamation district is
created to be known as the Fort Bend Subsidence District. The
district is a governmental agency, a political subdivision of the
state, and a body politic and corporate.

SECTION 4. BOUNDARIES. (a) The district includes all of
the territory within Fort Bend County.
(b) An adjoining county may be added to the district on
application of the commissioners court of the adjoining county and
compliance with the applicable provisions of Sections

(c) The proposition on the ballots for an election to add an
adjoining county to the district shall be printed to permit voting
for or against the proposition: "Addition of __________ County to
the Fort Bend Subsidence District."

(d) A county added to the district under this section is
subject to the jurisdiction of the board and this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is
governed by a board of 13 directors.

(b) One director from each of the following cities in Fort
Bend County shall be appointed by the mayor of the respective city:
(1) Houston;
(2) Missouri City;
(3) Stafford;
(4) Sugar Land;
(5) Rosenberg; and
(6) Richmond.

(c) The Commissioners Court of Fort Bend County shall
appoint two directors who represent agricultural interests and live
in an unincorporated area, two directors who represent industrial
interests, and two directors who represent business interests.

(d) One director shall be appointed by the mayors of the
incorporated cities within the county not listed in Subsection (b)
of this section.

(e) If an adjoining county is added to the district, four
members shall be added to the board. Two members shall be chosen
by the commissioners court of the county added to the district.

One member each shall be chosen by the mayors of the two cities in
the county added to the district that have the largest populations
according to the most recent federal decennial census. The four
new members shall draw lots to establish staggered terms of office.

(f) All directors must be residents of and qualified voters
in the district.

(g) The county judge of Fort Bend County shall set a date,
time, and place for a meeting of the persons designated in
Subsections (b), (c), and (d) of this section to choose the initial
directors. The county judge shall choose a date not later than the
30th day after the effective date of this Act. The county judge
shall mail notices of the meeting to the persons designated to
choose the directors. The county judge shall appoint a person to
preside at the meeting. The directors chosen at the meeting shall
assume their positions not later than the fifth day after the date
of the meeting.

(h) Selection of subsequent directors shall be made on the
second Monday in January at 11 a.m. in the district's main office.
Not later than the 20th day before the date of the meeting, the
district shall mail notice of the meeting to the persons designated
in Subsections (b), (c), (d), and (e) of this section to choose
directors.

(i) The terms of office for the initial directors shall be
as follows:

(1) five members chosen under Subsection (b) of this
section and four members chosen under Subsection (c) of this
section shall serve for terms expiring January 31, 1991; and

(2) one member chosen under Subsection (b) of this
section, two members chosen under Subsection (c) of this section,
and the member chosen under Subsection (d) of this section shall
serve for terms expiring January 31, 1990.

(j) Except as provided by Subsection (i) of this section,
members of the board shall serve for terms of two years.

(k) At the time the county judge of Fort Bend County sets
the meeting required by Subsection (g) of this section, the county
judge shall set the date, time, and place for the initial meeting
of the board. Not later than the 20th day before the date of the
initial meeting of the board, the county judge shall mail notices
of the meeting to the initial directors.

(l) At the initial meeting of the board and each year at the
first meeting after new directors take office, the directors shall
select a chairman, a vice-chairman, and a secretary. The chairman,
vice-chairman, and secretary shall serve at the pleasure of the
board and may be removed and replaced by a majority of the board at any time.

(m) The chairman shall preside over meetings of the board.

If the chairman is not present, the vice-chairman shall preside.

(n) Each director is entitled to receive $50 a day for each
day he is engaged in the exercise of his duties under this Act and
necessary travel and other expenses incurred in the exercise of his
duties under this Act. A member of the board may not receive
compensation and travel and other expenses for more than 120 days
in any one calendar year.

(o) If a vacancy occurs on the board, the person or persons
designated in Subsection (b), (c), (d), or (e) of this section to
appoint a director for the position that is vacated shall appoint a
director to serve the unexpired term.

(p) Each director shall take the oath of office prescribed
by law for county commissioners and shall execute a bond in the
amount of $5,000, payable to the district, conditioned on the
faithful performance of his duties. The district shall pay for the
bond.

(q) A majority of the directors constitute a quorum for
transaction of business of the district. An official act of the
board is not valid without the affirmative vote of a majority of
the directors.

(r) The board shall hold one regular meeting each month at a
time set by the board. The board may hold special meetings at the
call of the chairman or on the written request of at least three
directors.

SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board
shall administer this Act as provided by Section 1 of this Act.
(b) Withdrawals of groundwater covered by this Act are
subject to reasonable rules, regulations, and orders adopted by the
board.

(c) In adopting rules, regulations, and orders, the board
shall consider the following factors:

(1) availability of surface water;

(2) economic impact on persons and the community;

(3) degree and effect of subsidence on the surface of
the land; and

(4) differing topographical and geophysical
characteristics of the land.

(d) The board has all other powers necessary or convenient
to carry out its responsibilities and achieve the purpose of this
Act.

SECTION 7. GENERAL MANAGER. (a) The board may employ a
general manager who shall be the chief administrative officer of
the district. The board may delegate to the general manager the
authority to manage and operate the affairs of the district subject
only to orders of the board.

(b) The duties of the general manager include:

(1) administration of the orders of the board;

(2) coordination with state, federal, and local
agencies;

(3) supervision of the development of plans and
programs of the district;

(4) preparation and submission of the annual budget to
the board; and

(5) other duties assigned by the board.

(c) The general manager shall execute a bond in an amount
determined by the board, payable to the district, conditioned on
the faithful performance of his duties. The district shall pay for
the bond.

(d) The district may contract with any person to perform the
duties of general manager.

SECTION 8. EMPLOYEES. (a) The board shall employ personnel
necessary for the proper handling of the business and operation of
the district and may employ attorneys, bookkeepers, engineers, and
other expert and specialized personnel that are considered
necessary. The board shall determine the compensation to be paid
by the district to the employees.

(b) The board shall determine the term of office of and the
compensation to be paid to the general manager. The board may
discharge the general manager by a majority vote. The board may
discharge employees of the district.
(c) The board shall require an employee who collects, pays,
or handles funds of the district to furnish good and sufficient
bond, payable to the district, for a sufficient amount to safeguard
the district. The bond shall be conditioned on the faithful
performance of the employee's duties and on accounting for all
funds and property of the district under the employee's control.
The district shall pay for the bond.
SECTION 9. DISTRICT OFFICE. The board shall maintain its
principal office for conducting the business of the district. The
office must be located inside the district.
SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district
shall keep a true and complete account of the board's meetings and
proceedings and shall preserve the board's minutes, contracts,
records, notices, accounts, and receipts in a fireproof vault or
safe. The board's minutes, contracts, records, notices, accounts,
and receipts are the property of the district and are subject to
public inspection.
SECTION 11. SUITS. The district may sue and be sued in the
courts of this state in the name of the district by and through the
board. If requested by the district, the attorney general shall
represent the district in the district and appellate courts of this
state and in the courts of the United States. The board, in its
sole discretion, may employ attorneys to represent the district in
the district and appellate courts of this state and in the courts of
the United States. All courts shall take judicial notice of the
creation of the district and of its boundaries.
SECTION 12. SEAL. The board shall adopt a seal.
SECTION 13. RULES AND REGULATIONS. (a) After notice and
hearing under Section 14 of this Act, the board shall adopt and
enforce rules and regulations that are designed to expeditiously
and effectively accomplish the provisions and purposes of this Act,
including rules governing procedure before the board.
(b) The board shall compile its rules and regulations in a
book and make the book available for use and inspection at the
district's principal office. The district shall provide copies of
its rules and regulations on payment of the cost of reproduction.
SECTION 14. HEARINGS. (a) At regular meetings of the
board, the board shall set the dates, times, and locations for
hearings to be held under this Act.
(b) Not later than the 20th day before the date set for a
hearing, the district shall deliver or mail notice of the hearing
under this section to each county and municipal government within
the district and to each person that the board believes has an
interest in the subject matter to be dealt with at the hearing.
(c) Not later than the 20th day before the date set for a
hearing, the district shall publish notice of the hearing under
this section once in a newspaper of general circulation in each
county within the district.
(d) Not later than the 20th day before the date set for a
hearing, the district shall post the notice of the hearing under
this section at the county courthouse of each county within the
district in the place where notices are usually posted.
(e) Any person who desires to appear at a hearing and
present testimony, evidence, exhibits, or other information may do
so in person, by counsel, or both.
(f) The board may hold hearings at any location within the
district.
(g) The board may recess a hearing from day to day.
(h) The board may use hearing examiners to hear any subject
set for the hearing. Procedures for use of hearing examiners shall
be provided in the rules and regulations.
SECTION 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND
SUBPOENAS. The board may subpoena a person to testify if the
person's testimony is necessary to carry out the powers, duties,
and functions of the board under this Act. The board may
administer oaths to persons who testify before the board. The
board may subpoena documents if the documents are necessary to
carry out the powers, duties, and functions of the board under this Act. On application of the board, a district court shall enforce the subpoena in the same manner as a subpoena issued by the court.

SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this Act, the board shall formulate a plan to control and mitigate subsidence within the district. The plan shall accomplish this purpose by the regulation of groundwater withdrawals to maintain sufficient artesian pressure to control and mitigate subsidence.

(b) The plan shall specify, in as much detail as practicable, the acts, procedures, performance, and avoidance that are necessary to carry out the purposes of this Act.

(c) When formulating the plan, the board shall compile and consider:

(1) a list of wells in the district that will be subject to regulation under this Act;

(2) an accurate estimate of groundwater production from each well or proposed well in the district;

(3) an accurate estimate of the amount of groundwater that may be produced from each well and each area in the district without causing long-term static water level decline and reduction of artesian pressure that will lead to subsidence within the district;

(4) an accurate estimate of the current and future water needs of each well owner in the district;

(5) an accurate estimate of the groundwater production capacity of each well in the district;

(6) a list of all available sources of water in the district other than groundwater;

(7) the purpose for which the water is currently used and for which it is proposed to be used in the future;

(8) information relating to formulation of a permit system; and

(9) other information necessary to carry out the management of groundwater in the district and to effectively and expeditiously accomplish the purposes of this Act.

(d) The plan shall be formulated not later than 12 months after the effective date of this Act.

(e) Not later than the 60th day after the date the plan is formulated, the board shall review and adopt the plan.

(f) Before the plan is adopted, the board shall hold a hearing under Section 14 of this Act to consider the proposed plan.

(g) After the hearing, the board shall make any changes it considers necessary based on evidence and material presented at the hearing and shall adopt the plan.

(h) The plan adopted under this section may be amended or repealed. A new plan may be adopted in the manner provided in this section for the adoption of the original plan. A plan, once adopted, shall remain in effect until the adoption of a new plan.

SECTION 17. TEMPORARY REGULATION. During the period that the board is formulating and adopting the plan under Section 16 of this Act, the board shall adopt temporary rules and regulations relating to the withdrawal of groundwater that are necessary to control subsidence.

SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well located in the district must obtain a permit from the board to withdraw groundwater.

(b) Owners of wells operating or being drilled on the effective date of this Act must apply for a permit before January 1, 1990, and may continue to operate the well without a permit until the application for a permit for the well is acted on by the board.

(c) A permit issued under this Act is valid for a term of one year from the date it is issued unless a longer or shorter term is specified by the board. The board may issue a permit for a term not to exceed five years in order to aid the district in the effective and expeditious performance of its duties if issuance of the permit does not impair the ability of the district to control and prevent subsidence within the district.

(d) A permit may be revoked, suspended, modified, or amended after notice and public hearing under Section 14 of this Act
whenever reasonably necessary to accomplish the purposes of this Act.

(e) Permits may be renewed in the same manner as permits are issued.

(f) To obtain a permit, a person must submit an application and an application fee to the board. The application must state:

(1) the person's name;
(2) the person's address;
(3) the location and wellhead elevation of the well or proposed well;
(4) the amount of water being produced or proposed to be produced; and
(5) any other information required by the board as necessary for the board to control and prevent subsidence in the district.

(g) The board shall use the application fee to process applications.

SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board shall hold a hearing on each application.

(b) Not later than the 20th day before the date set for the hearing, the board shall notify the applicant by certified mail, return receipt requested, of the date, time, and location of the hearing.

(c) Except as provided by this section, the hearing shall be conducted and notice of hearing given under Section 14 of this Act.

(d) The board may consider as many applications for permits as it considers necessary at a hearing.

SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the 35th day after the date of the hearing, the board shall decide whether or not to issue a permit and shall formulate the terms of the permit, if issued.

(b) In deciding whether or not to issue a permit and in setting the terms of the permit, the board shall consider:

(1) the purpose of this Act;
(2) the district plan;
(3) the quality, quantity, and availability of surface water at prices competitive with those charged by suppliers of surface water within the district; and
(4) the economic impact on the applicant of granting or denying the permit or of the terms prescribed by a permit in relation to the effect on subsidence that would result.

(c) The board shall grant a permit to an applicant whenever the board finds on sufficient evidence that:

(1) there is no other adequate and available substitute or supplemental source of surface water at prices competitive with those charged by suppliers of surface water within the district; and
(2) compliance with any provision of this Act, or any rule or regulation of the district, will result in an arbitrary taking of property or in the practical closing and elimination of any lawful business, occupation, or activity, without sufficient corresponding benefit or advantage to the people.

(d) If the board decides to issue the permit, the permit must state the terms prescribed by the board.

(e) The permit must include the following:

(1) the name and address of the permittee;
(2) the location of the well;
(3) the date the permit begins and the date the permit expires;
(4) conditions and restrictions placed on the withdrawal of groundwater;
(5) adoption of water conservation measures for the purpose of preventing waste of groundwater, including educational programs; and
(6) any other terms and conditions necessary to control and prevent subsidence.

SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under this Act is not transferable unless the permittee and new owner notify the district by certified mail, return receipt requested, of the transfer of ownership of the well and provide the name and
address of the new owner. On receipt of that information, the
district shall issue an amended permit with the new owner of the
well as permittee. The remaining terms of the permit shall remain
unchanged.

SECTION 22. ANNUAL REPORTS. Before January 31 of each year,
each owner of a well who holds a permit under this Act shall submit
a report to the board stating the following:
(1) the person's name;
(2) the location of the well;
(3) the total amount of groundwater produced by the
well during the immediately preceding 12-month period;
(4) the total amount of groundwater produced by the
well during each separate month of the immediately preceding
12-month period;
(5) the purpose for which the groundwater was used;
(6) the date the permit expires; and
(7) any other information required by the board as
necessary for the board to control and prevent subsidence within
the district.

SECTION 23. BOARD INVESTIGATIONS. At least once each year
and at any other time that the board considers necessary, the board
may have its staff make a complete study of the groundwater
situation within the district and determine the water level, rates
of withdrawal, amounts of withdrawal, and other information
relating to the withdrawal of groundwater that may affect the
subsidence of land within the district.

SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.
(a) Before March 31 of each year, the board shall hold a hearing
under Section 14 of this Act to determine the effects during the
preceding calendar year of groundwater withdrawal on the subsidence
of land within the district.
(b) At the hearing, the board shall consider the annual
reports submitted under Section 22 of this Act and the
investigation made under Section 23 of this Act in addition to
information represented by persons appearing before the board.
(c) After the hearing, the board shall consider all the
information presented to it and shall determine the groundwater
withdrawal in the district during the preceding calendar year and
shall make findings of the effects of groundwater withdrawal during
that year on the subsidence of land within the district. A report
of the board's findings and determinations shall be made available
for examination by any interested person.

SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
order to minimize, as far as practicable, the drawdown of the water
table and reduction of artesian pressure and to control and prevent
subsidence, the board may provide for the spacing of wells and
regulate the production of groundwater from the wells, taking into
consideration any relevant factors, including the economic impact
on well owners and the resulting effect on subsidence.
(b) Before issuing any rule, regulation, or order under this
section, the board shall set a hearing on the proposed rule,
regulation, or order and issue notice of the hearing. Notice must
be given and hearings conducted in the manner provided in Section
14 of this Act.

SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
adopt orders after notice and hearing under Section 14 of this Act
requiring water-metering devices to be placed on wells.

SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
and other investigations necessary to the implementation of this
Act, the board and its agents and employees are entitled to access
to all property within the district.
(b) Before entering property for the purposes stated in
Subsection (a) of this section, the person seeking access shall
give notice to the owner of the property in the manner provided by
the rules and regulations of the district and shall present proper
credentials.
(c) The board, and its agents and employees who enter
private property, shall observe the establishment's rules and
regulations concerning safety, internal security, and fire
protection.
SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The district may use subsidence compaction monitors, water level observation wells, and other materials and equipment to determine the amount of groundwater that may be produced while allowing the rebound and stabilization of groundwater to a level that will halt subsidence.

SECTION 29. RESEARCH AND STUDIES. The board may conduct studies and research that it considers necessary to implement this Act. The board may use the services of geologists, hydrologists, registered professional engineers, or other expert personnel to accomplish the purposes of this section.

SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER GOVERNMENTAL ENTITIES. The board may cooperate with and request the assistance of the Texas Water Development Board, the commission, the United States Geological Survey, local governments, and other agencies of the United States and the State of Texas in implementing this Act.

SECTION 31. CONTRACTS. The board may enter into contracts with any person to carry out this Act.

SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT. 
(a) A person who is adversely affected by a rule, regulation, order, or other official action of the board may appeal to a district court in any county in the district.
(b) For the purposes of this section, "a person who is adversely affected" includes a person residing in or owning real property in the district whose residence or real property is subsidizing. An appeal under this section must be filed not later than the 45th day after the date the rule, regulation, order, or other official action appealed from is promulgated.
(c) On written request of a person who is adversely affected, the board shall make written findings and conclusions with respect to a rule, regulation, order, or other official action of the district. Not later than the 35th day after the request was made, the board shall provide a certified copy of the findings and conclusions to the person who made the request.
(d) In appeals taken under this section, the substantial evidence rule shall be used to determine the legal propriety of a rule, regulation, order, or other action of the board.

SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE COMMISSION. (a) As an alternative to the appeal provided by Section 32 of this Act, a person who is granted a permit authorizing withdrawal of groundwater in an amount less than requested by that person may appeal the board's final decision to the commission. The appeal shall be filed not later than the 60th day after the date of the final order of the board.
(b) On written request of the person proposing to appeal an order under Subsection (a) of this section, the board shall make written findings and conclusions with respect to the order and shall provide certified copies of the findings and conclusions to the person making the request not later than the 35th day after the date on which the written request is submitted to the board.
(c) The effect of a board order is stayed until the decision of the commission in an appeal under this section is final.
(d) The review on appeal to the commission under this section is governed by the substantial evidence rule as provided by Section 19(e), Administrative Procedure and Texas Register Act (Article 5252-13a, Vernon's Texas Civil Statutes).
(e) The commission may adopt necessary rules to carry out the provisions of this section.
(f) An appeal from a final decision of the commission is to a district court in Travis County and is governed by the substantial evidence rule. Any party to the proceedings before the commission may appeal a decision of the district court in the manner provided for other civil actions, but a party appealing a decision of a district court is not required to provide an appeal bond.
(g) Under this section, the commission may adopt and assess reasonable and necessary fees adequate to recover the costs of the commission in administering this section.

SECTION 34. PERMIT FEE. (a) At the time a permit is issued
or renewed, the board shall collect from the permittee a permit fee, established by schedule, based on the term of the permit and the maximum amount of groundwater authorized by the board to be withdrawn annually from the well.

(b) The fee schedule shall be determined by the board after a hearing under Section 14 of this Act.

(c) The board shall use the funds obtained from permit fees to cover the costs of issuing permits and performing other functions under this Act.

SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On behalf of the district, the board may:

(1) purchase, lease, own, convey, and dispose of property both inside and outside the district necessary or convenient to the exercise of the powers, duties, and functions of the board under this Act;

(2) accept grants, gifts, and devises of property;

(3) construct, purchase, lease, or acquire in some other manner any material or property necessary to carry out this Act; and

(4) accept gifts, grants, loans, or other distributions of money.

SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and rights of the owner of land and his lessees and assigns in groundwater are recognized and nothing in this Act shall be construed as depriving or divesting the owner or his lessees and assigns of the ownership or rights, subject to rules and regulations and orders and other official actions of the district.

SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and administrative rules relating to the use of surface water do not apply to groundwater.

SECTION 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. The district may not sell or distribute surface water or groundwater for any purpose.

SECTION 39. EXCLUSIONS. This Act does not apply to:

(1) wells regulated under Chapter 27, Water Code;

(2) shallow wells producing water solely to prevent hazardous sand boils, dewater surface construction sites, or relieve hydrostatic uplift on permanent structures and not used to provide water for human consumption, agricultural use, manufacturing or industrial use, or water injection;

(3) shallow wells producing water solely for groundwater quality analysis and for monitoring migration of subsurface contaminants or pollution and not used to provide water for human consumption, agricultural use, manufacturing or industrial uses, or water injection;

(4) shallow wells producing water solely for recovery of contamination or pollution and not used to provide water for human consumption, agricultural use, manufacturing or industrial use, or water injection;

(5) persons owning only one well within the district if the well has a casing with an inside diameter of five inches or less; and

(6) on application for an exemption on a form prescribed by the board, other wells with a casing that has an inside diameter of five inches or less that serve a single-family dwelling and have a negligible effect on subsidence within the district.

SECTION 40. DISBURSEMENT OF FUNDS. The district's money may be disbursed by check, draft, order, or other instruments, signed by the person or persons authorized to do so by the board's bylaws or by resolution of the board.

SECTION 41. ACCOUNTS AND INDEPENDENT AUDIT. (a) The district shall keep a complete system of accounts and shall have its affairs audited each year by an independent certified public accountant or a firm of independent certified public accountants of recognized integrity and ability. The district shall pay for the audit.

(b) The board shall deliver a copy of the audit to the commissioners court of each county in the district. The board shall keep one copy of the audit at the district office, open to
inspection by any interested person during normal office hours.

SECTION 42. DEPOSITORY BANKS. (a) The board shall
designate one or more banks within the district to serve as
depository for the funds of the district. Except as provided by
Subsection (b) of this section, all funds of the district shall be
deposited in a depository bank.
(b) To the extent provided in a trust indenture, bond
proceeds and funds pledged to pay bonds may be deposited with the
trustee bank named in the trust indenture and shall be remitted to
the bank of payment for the payment of the principal of and
interest on the bonds.
(c) To the extent that funds in a depository bank or a
trustee bank are not invested or insured by the Federal Deposit
Insurance Corporation, they shall be secured in the manner provided
by law for the security of county funds.
(d) Before designating a depository bank, the board shall
issue a notice stating the time and place the board will meet for
that purpose and shall invite the banks in the district to submit
applications to be designated depositories. The term of service
for depositories shall be prescribed by the board. The board shall
publish the notice once in a newspaper of general circulation in
the district or mail a copy of the notice to each bank in the
district.
(e) The board shall consider the management and condition of
the banks that apply and shall designate as depositories the bank
or banks that offer the most favorable terms and conditions for
handling of the funds of the district and that the board finds have
proper management and are in condition to warrant handling of
district funds.
(f) Membership on the board of an officer or director of a
bank does not disqualify the bank from being designated as
depository.
(g) If no applications are received before the meeting, the
board shall designate a bank or banks within or outside the
district on terms and conditions it finds advantageous to the
district.

SECTION 43. PENALTIES. (a) If a person has violated, is
violating, or is threatening to violate a provision of this Act or
a rule, regulation, permit, or other order of the district, the
district may bring a civil action in a district court within the
district for an injunction to restrain the person from continuing
the violation or the threat of violation, for a civil penalty of
not less than $50 nor more than $5,000 for each violation and for
each day of violation, or for both injunctive relief and civil
penalty.
(b) At the request of the district, or the general manager
authorized by the board, the attorney general shall institute the
action. However, the district in its sole discretion may employ
attorneys of its choice to institute the action.
(c) The board is not required to post bond or other security
with the court under this section.
(d) On application for injunctive relief and a finding that
a person is violating or threatening to violate any provision of
this Act or any rule, permit, or other order of the district, the
district court shall grant any injunctive relief the facts may
warrant.

SECTION 44. LEGISLATIVE FINDING OF AUTHORITY. The
legislature finds that the requirements of Article XVI, Sections
59(d) and (e), of the Texas Constitution have been performed and
accomplished and that the legislature has the power and authority
to enact this Act.

SECTION 45. EMERGENCY. The importance of this legislation
and the crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.
H.B. No. 2819

* * * *

Austin, Texas
May 23, 1989

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred H.B.
No. 2819, have had the same under consideration, and I am
instructed to report it back to the Senate with the recommendation
that it do pass and be printed.

Santiesteban, Chairman
LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
May 20, 1989

TO: Honorable H. Tati Santiesteban, Chairman
   Committee on Natural Resources
   Senate Chamber
   Austin, Texas

In Re: House Bill No. 2819, as engrossed

BY: Tallas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 2819, as engrossed (relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal implication on units of local government.

Source: LBB Staff: JO, JWH, AL, SKM, NH
April 19, 1989

The Honorable Terral Smith
Chairman, Committee on Natural Resources
House of Representatives
Austin, Texas

Dear Mr. Chairman:

In response to your request for an Author's Fiscal Statement on HB 2819 relating to the creation, powers, duties, administration and operations of the Fort Bend County Subsidence District, I have determined the following:

The costs to local governments for the creation of this district appear to be minimal. Each of the member cities may incur slight administrative costs for processing the mayoral appointments to the board of directors.

The costs to the district of developing a management plan, adopting temporary rules and conducting hearings will be financed by permit fees, as well the ongoing operating costs of the districts.

FISCAL YEAR PROJECTIONS

1990...Minimal
1991...same as 1990 anticipated
1992...same as 1990 anticipated

Please let me know if I can provide further information to you.

Sincerely,

Jim Tallas

JT/rc
April 19, 1989

The Honorable Gib Lewis  
Speaker of the House of Representatives  
P.O. Box 2910  
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, SS2 and Article XVI, SS9(d), Texas Constitution: Fort Bend Subsidence District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen Beinke  
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives  
Ms. Betty King, Secretary of the Senate  
Representative Terral Smith, Chairman, House Natural Resources Committee  
Senator Bill Sims, State Senate  
Representative Jim Tallas, House of Representatives
TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATED TO THE FORT BEND
SUBSIDENCE DISTRICT

Water Development Policy Impact Statements for House Bill 2819 (H.B. 2819) relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend Subsidence District follow.

Wells located within the limits of this proposed district which covers all of Fort Bend County, utilize the Gulf Coast aquifer. During the period from 1975-1985, excessive water-level declines occurred primarily in the southeastern one-half of the county, with up to 40 feet of water-table decline taking place. During this same time, between 50-100 feet of artesian decline also occurred in the north-central part of the county. Excessive pumpage with its associated water-level declines, triggers land-surface subsidence. This is hydrogeologic justification for the district. The Harris-Galveston Coastal Subsidence District which encompasses all of Harris and Galveston Counties, adjoins the proposed district on the northeast. Fort Bend County lies within a state designated critical area.

H.B. 2819 provides for the regulation of the withdrawal of groundwater within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall exercise its rights, powers, and duties in a manner which will effectively and expeditiously accomplish the purpose of the act. The district is proposed to be created under Article XVI, Section 59, of the Texas Constitution and as a conservation and reclamation district. Specific impact statements related to required headings follow:

1) Population projections - The proposed District is coterminal with the boundaries of Fort Bend County. The Board's current projected
population for Fort Bend County indicates an anticipated increase in population ranging from 154,831 to 208,720 over the next 20 years.

2) **District finances** - The district shall collect from a permittee (owner of a well other than specific types which are excluded) a permit fee, established by a schedule set by the board following a hearing, based on the term of the permit (one to five years) and the maximum amount of ground water authorized to be withdrawn annually from the well. Permit fee funds obtained shall be used to cover the costs of issuing permits and performing other district functions. The district may also accept grants, gifts, devises of property (which it may dispose of), and other distributions of money.

3) **Board of directors & powers** - This proposed district is to be governed by a board of 13 directors. Six of these are to be composed of one director each from the cities of Houston, Missouri City, Stafford, Sugar Land, Rosenberg, and Richmond who are to be appointed by the mayor of the respective cities. Five of these shall serve terms expiring January 31, 1991. One member's term shall expire January 31, 1990. Two directors representing agricultural interests who live in an unincorporated area, and four directors (two each) will represent industrial and business interests. Four of the six shall serve terms expiring January 31, 1991. The terms of the other two shall expire January 31, 1990. Additionally, one director will be appointed by all of the mayors of the other incorporated cities of the county. Except as provided for the one city member and two agricultural, industrial, or business members whose terms expire in January 31, 1989, the rest shall serve terms of two years. In the event an adjoining county is added to the district, four additional members will be added to the board. Two of these members will be chosen by the commissioners court of the affected county and one member each will be chosen by the mayors of the two cities of the affected county having the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered two year terms.
Since the bill creates a ground-water subsidence district under Article XVI, Section 59 of the Texas Constitution, and powers relating to Chapters 50, 51, and 52 of the Texas Water Code are not included, its powers are limited to those specifically set out in the bill. The bill requires that the board shall administer this act to provide for the regulation of the withdrawal of ground water within the district to prevent subsidence which contributes to or precipitates flooding, inundation, or overflow of areas, including rising waters resulting from storms or hurricanes. The district shall administer and enforce the terms of this act and shall exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of the act. Specifically, the district shall control the withdrawals of ground water with reasonable rules, regulations, and orders. These shall consider: 1) availability of surface water, 2) the economic impact on the community, 3) the degree and effect of subsidence on the surface of the land, 4) differing topographical and geophysical characteristics of the land, and 5) the board has all other powers necessary or convenient to carry out its responsibilities and achieve the act's purposes.

The district may sue and be sued in the courts in the name of the district by and through the board. The board may employ attorneys to represent the district in district and appellate courts of the state and in the courts of the United States. The district may hold hearings to receive testimony, evidence, exhibits, and other information. The board has the power to subpoena a person or documents and to enforce the subpoena. It also has the power to administer oaths necessary to carry out the powers, duties, and functions of the board.

The board is empowered to formulate a plan within 12 months to control and prevent subsidence; adopt temporary rules during plan development; require well permits for one to five years and revoke, suspend, or modify these permits; to conduct required hearings; prepare annual reports relating to the number of wells and their respective pumpage; make annual studies of the ground-water situation including determination of the effects of ground-water withdrawal on subsidence;
regulate well spacing and pumpage; require metering devices; access property to conduct investigations; use monitoring devices to determine water-level declines and land-surface compaction; to cooperate with and obtain assistance from other governmental entities; to conduct research and studies; to enter into contracts with any person; disburse funds; and to assess penalties for violations of district regulations.

The district's powers do not apply to surface water and it may not sell or distribute surface or ground water. The act also recognizes private ownership of ground water. Additionally, the district may not control certain types of wells specifically set out in the bill. These include wells with a casing having an inside diameter of five inches or less that serve a single-family dwelling which have a negligible effect on subsidence.

4) Effect on Texas Water Development Board's water plan - The Board finds that creation of a proposed subsidence control district is consistent with the State Water Plan objective of local control of groundwater to prevent the effects of subsidence in southeastern Texas. The Board has provided regional water supply planning grant assistance to improve the management of groundwater and promote conversion to surface water supplies in most of Fort Bend County, and the results of the Board-funded planning projects indicate a need to better manage groundwater resources in the area.

5) Texas Water Commission's supervision - This proposed district will be under the "continuing right of supervision of the State of Texas" by the Commission as set out by Section 12.081 of the Texas Water Code. It is also subject to applicable general reporting provision requirements for all districts as set out in Subchapter A, Sections 50.001 through 50.106, Texas Water Code.

6) Eminent domain power - This district does not have this power.
7) Exclusion of land from district - This bill contains no specific provisions for the exclusion of land from the district; however, Section 4 of the bill sets out the procedure for adding adjoining counties to the district.

8) Adequacy of the boundary description - The district includes all of the area located within Fort Bend County, therefore, the boundary description is adequate. At present there are a total of 125 water-related districts in existence within the county. Additionally, there are four municipal utility districts on which a hearing is pending. A breakout of those districts now in existence, by category, are as follows: 108 municipal utility, 10 levee improvement/flood control, 6 water control and improvement, and 1 drainage. These are all located in the northern one-half of the county and north of the community of Pleak. Many of the municipal utility districts undoubtedly have wells which would be required to be permitted, subjected to regulation of spacing and production, and would be required to pay a permit fee based on the term of the permit and the maximum amount of ground water authorized to be withdrawn annually from the well.

9) Comments on powers and duties different from similar types of districts
This district has the normal powers and duties accorded to a subsidence district and the bill goes into great detail on its operation. The bill requires the formulation and review of a management plan within the brief period of 12 months after the effective date of the bill. This does not allow sufficient time for this project. Since the district may contract with any person to perform the duties of general manager and it may enter into contracts with any person, this may allow it to contract with the Harris-Galveston Coastal Subsidence District for general management services and the development of the required management plan.

For clarification of the bill, the following changes are recommended:
a) on page 7, lines 22 and 26, the word "board" should be changed to general manager; b) on page 10, lines 22 and 25, the word "prevent" should be changed to mitigate; and c) on page 11, line 10, the phrase
"drawdown of the water table" should be changed to long-term static water-level decline.
LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES
STATE OF TEXAS

TO: The Honorable William P. Clements, Jr.
    Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Water Commission copies of House Bill No. 2819, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Water Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

MAR 30 1989
Date transmitted to
Governor's Office

Betty Murray, Chief Clerk
House of Representatives

TO: Texas Water Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of House Bill No. 2819, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

3/31/89
Date transmitted to
Texas Water Commission

William P. Clements, Jr.
Governor

TO: The Honorable Gibson D. "Gib" Lewis
    Speaker of the House

    The Honorable William P. Hobby
    President of the Senate

    The Honorable William P. Clements, Jr.
    Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Water Commission on House Bill No. __________, in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.

Allen Bainke
Executive Director
PUBLISHER’S AFFIDAVIT

THE STATE OF TEXAS

County of Fort Bend,

On this the 10 day of March, A. D. 1989, personally appeared before
the undersigned, a Notary Public in and for said county and state, Clyde C. King, Jr.
Associate Publisher of The Herald-Coaster, a newspaper published at Rosenberg,
County of Fort Bend, State of Texas, who, being by me duly sworn, on oath, states
that the advertisement, a true copy of which is hereto annexed, was published in

(SEAL)                                    said newspaper in one issue(s)

thereof on the following date(s):

February 10


Subscribed and sworn to before me, this
the 10 day of March, A. D. 1989.

Notary Public in and for Fort Bend County,
Texas
Lori Bobbitt
My Commission expires 3/18/89
THE TEXAS WATER COMMISSION

April 19, 1989

The Honorable Gib Lewis  
Speaker of the House of Representatives  
P.O. Box 2910  
Austin, Texas 78769

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Sec. 36.

Bill No. (H.B. 2819) - Proposed creation of a conservation and reclamation district pursuant to Article III, S52 and Article XVI, S59(d), Texas Constitution: Fort Bend Subsidence District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments on items 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen Beinke  
Executive Director

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives  
Ms. Betty King, Secretary of the Senate  
Representative Terral Smith, Chairman, House Natural Resources Committee  
Senator Bill Sims, State Senate  
Representative Jim Tallas, House of Representatives

P. O. Box 13087 Capitol Station  ●  1700 North Congress Ave.  ●  Austin, Texas 78711-3087  ●  Area Code 512/463-7830
AN ACT

relating to the creation, administration, powers, duties, and
operations of the Fort Bend Subsidence District; providing for
civil penalties.

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

SECTION 1. PURPOSE AND INTENT. (a) The purpose of this Act
is to provide for the regulation of the withdrawal of groundwater
within the district created by this Act to prevent subsidence that
contributes to or precipitates flooding, inundation, or overflow of
areas within the district, including rising waters resulting from
storms or hurricanes.

(b) It is the intent of the legislature that the district
created by this Act shall administer and enforce the terms of this
Act and shall exercise its rights, powers, and duties in a manner
that will effectively and expeditiously accomplish the purposes of
this Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "Person" includes a corporation, individual,
organization, government, governmental subdivision or agency,
business trust, estate, trust, partnership, or association, and any
other legal entity.

(2) "District" means the Fort Bend Subsidence
District.

(3) "Board" means the board of directors of the Fort
Bend Subsidence District.

(4) "Groundwater" means water existing below the earth's surface within the district, but does not include water produced with oil in the production of oil and gas.

(5) "Well" means a facility, device, or method used to withdraw groundwater.

(6) "Withdraw" means the act of extracting groundwater by pumping or some other method.

(7) "Drill" means drilling, equipping, or completing wells or substantially altering the size of wells or well pumps.

(8) "Subsidence" means the lowering in elevation of the surface of land by the withdrawal of groundwater.

(9) "Commission" means the Texas Water Commission.

SECTION 3. CREATION. Under Article XVI, Section 59, of the Texas Constitution a conservation and reclamation district is created to be known as the Fort Bend Subsidence District. The district is a governmental agency, a political subdivision of the state, and a body politic and corporate.

SECTION 4. BOUNDARIES. (a) The district includes all of the territory within Fort Bend County.

(b) An adjoining county may be added to the district on application of the commissioners court of the adjoining county and compliance with the applicable provisions of Sections 55.730-55.744, Water Code.

(c) The proposition on the ballots for an election to add an adjoining county to the district shall be printed to permit voting for or against the proposition: "Addition of ______ County to
(d) A county added to the district under this section is subject to the jurisdiction of the board and this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 13 directors.

(b) One director from each of the following cities in Fort Bend County shall be appointed by the mayor of the respective city:

(1) Houston;

(2) Missouri City;

(3) Stafford;

(4) Sugar Land;

(5) Rosenberg; and

(6) Richmond.

(c) The Commissioners Court of Fort Bend County shall appoint two directors who represent agricultural interests and live in an unincorporated area, two directors who represent industrial interests, and two directors who represent business interests.

(d) One director shall be appointed by the mayors of the incorporated cities within the county not listed in Subsection (b) of this section.

(e) If an adjoining county is added to the district, four members shall be added to the board. Two members shall be chosen by the commissioners court of the county added to the district. One member each shall be chosen by the mayors of the two cities in the county added to the district that have the largest populations according to the most recent federal decennial census. The four new members shall draw lots to establish staggered terms of office.
(f) All directors must be residents of and qualified voters in the district.

(g) The county judge of Fort Bend County shall set a date, time, and place for a meeting of the persons designated in Subsections (b), (c), and (d) of this section to choose the initial directors. The county judge shall choose a date not later than the 30th day after the effective date of this Act. The county judge shall mail notices of the meeting to the persons designated to choose the directors. The county judge shall appoint a person to preside at the meeting. The directors chosen at the meeting shall assume their positions not later than the fifth day after the date of the meeting.

(h) Selection of subsequent directors shall be made on the second Monday in January at 11 a.m. in the district's main office. Not later than the 20th day before the date of the meeting, the district shall mail notice of the meeting to the persons designated in Subsections (b), (c), (d), and (e) of this section to choose directors.

(i) The terms of office for the initial directors shall be as follows:

(1) five members chosen under Subsection (b) of this section and four members chosen under Subsection (c) of this section shall serve for terms expiring January 31, 1991; and

(2) one member chosen under Subsection (b) of this section, two members chosen under Subsection (c) of this section, and the member chosen under Subsection (d) of this section shall serve for terms expiring January 31, 1990.
(j) Except as provided by Subsection (i) of this section, members of the board shall serve for terms of two years.

(k) At the time the county judge of Fort Bend County sets the meeting required by Subsection (g) of this section, the county judge shall set the date, time, and place for the initial meeting of the board. Not later than the 20th day before the date of the initial meeting of the board, the county judge shall mail notices of the meeting to the initial directors.

(l) At the initial meeting of the board and each year at the first meeting after new directors take office, the directors shall select a chairman, a vice-chairman, and a secretary. The chairman, vice-chairman, and secretary shall serve at the pleasure of the board and may be removed and replaced by a majority of the board at any time.

(m) The chairman shall preside over meetings of the board. If the chairman is not present, the vice-chairman shall preside.

(n) Each director is entitled to receive $50 a day for each day he is engaged in the exercise of his duties under this Act and necessary travel and other expenses incurred in the exercise of his duties under this Act. A member of the board may not receive compensation and travel and other expenses for more than 120 days in any one calendar year.

(o) If a vacancy occurs on the board, the person or persons designated in Subsection (b), (c), (d), or (e) of this section to appoint a director for the position that is vacated shall appoint a director to serve the unexpired term.

(p) Each director shall take the oath of office prescribed
by law for county commissioners and shall execute a bond in the
amount of $5,000, payable to the district, conditioned on the
faithful performance of his duties. The district shall pay for the
bond.

(q) A majority of the directors constitute a quorum for
transaction of business of the district. An official act of the
board is not valid without the affirmative vote of a majority of
the directors.

(r) The board shall hold one regular meeting each month at a
time set by the board. The board may hold special meetings at the
call of the chairman or on the written request of at least three
directors.

SECTION 6. POWERS AND DUTIES IN GENERAL. (a) The board
shall administer this Act as provided by Section 1 of this Act.

(b) Withdrawals of groundwater covered by this Act are
subject to reasonable rules, regulations, and orders adopted by the
board.

(c) In adopting rules, regulations, and orders, the board
shall consider the following factors:

(1) availability of surface water;

(2) economic impact on persons and the community;

(3) degree and effect of subsidence on the surface of
the land; and

(4) differing topographical and geophysical
characteristics of the land.

(d) The board has all other powers necessary or convenient
to carry out its responsibilities and achieve the purpose of this
Act.

SECTION 7. GENERAL MANAGER. (a) The board may employ a
general manager who shall be the chief administrative officer of
the district. The board may delegate to the general manager the
authority to manage and operate the affairs of the district subject
only to orders of the board.

(b) The duties of the general manager include:

(1) administration of the orders of the board;

(2) coordination with state, federal, and local
agencies;

(3) supervision of the development of plans and
programs of the district;

(4) preparation and submission of the annual budget to
the board; and

(5) other duties assigned by the board.

(c) The general manager shall execute a bond in an amount
determined by the board, payable to the district, conditioned on
the faithful performance of his duties. The district shall pay for
the bond.

(d) The district may contract with any person to perform the
duties of general manager.

SECTION 8. EMPLOYEES. (a) The board shall employ personnel
necessary for the proper handling of the business and operation of
the district and may employ attorneys, bookkeepers, engineers, and
other expert and specialized personnel that are considered
necessary. The board shall determine the compensation to be paid
by the district to the employees.
H.B. No. 2819

(b) The board shall determine the term of office of and the compensation to be paid to the general manager. The board may discharge the general manager by a majority vote. The board may discharge employees of the district.

(c) The board shall require an employee who collects, pays, or handles funds of the district to furnish good and sufficient bond, payable to the district, for a sufficient amount to safeguard the district. The bond shall be conditioned on the faithful performance of the employee's duties and on accounting for all funds and property of the district under the employee's control. The district shall pay for the bond.

SECTION 9. DISTRICT OFFICE. The board shall maintain its principal office for conducting the business of the district. The office must be located inside the district.

SECTION 10. MINUTES AND RECORDS OF DISTRICT. The district shall keep a true and complete account of the board's meetings and proceedings and shall preserve the board's minutes, contracts, records, notices, accounts, and receipts in a fireproof vault or safe. The board's minutes, contracts, records, notices, accounts, and receipts are the property of the district and are subject to public inspection.

SECTION 11. SUITS. The district may sue and be sued in the courts of this state in the name of the district by and through the board. If requested by the district, the attorney general shall represent the district in the district and appellate courts of this state and in the courts of the United States. The board, in its sole discretion, may employ attorneys to represent the district in
the district and appellate courts of this state and in the courts
of the United States. All courts shall take judicial notice of the
creation of the district and of its boundaries.

SECTION 12. SEAL. The board shall adopt a seal.

SECTION 13. RULES AND REGULATIONS. (a) After notice and
hearing under Section 14 of this Act, the board shall adopt and
enforce rules and regulations that are designed to expeditiously
and effectively accomplish the provisions and purposes of this Act,
including rules governing procedure before the board.

(b) The board shall compile its rules and regulations in a
book and make the book available for use and inspection at the
district’s principal office. The district shall provide copies of
its rules and regulations on payment of the cost of reproduction.

SECTION 14. HEARINGS. (a) At regular meetings of the
board, the board shall set the dates, times, and locations for
hearings to be held under this Act.

(b) Not later than the 20th day before the date set for a
hearing, the district shall deliver or mail notice of the hearing
under this section to each county and municipal government within
the district and to each person that the board believes has an
interest in the subject matter to be dealt with at the hearing.

(c) Not later than the 20th day before the date set for a
hearing, the district shall publish notice of the hearing under
this section once in a newspaper of general circulation in each
county within the district.

(d) Not later than the 20th day before the date set for a
hearing, the district shall post the notice of the hearing under
this section at the county courthouse of each county within the
district in the place where notices are usually posted.
(e) Any person who desires to appear at a hearing and
present testimony, evidence, exhibits, or other information may do
so in person, by counsel, or both.
(f) The board may hold hearings at any location within the
district.
(g) The board may recess a hearing from day to day.
(h) The board may use hearing examiners to hear any subject
set for the hearing. Procedures for use of hearing examiners shall
be provided in the rules and regulations.

SECTION 15. COMPPELLING TESTIMONY, SWEARING WITNESSES, AND
SUBPOENAS. The board may subpoena a person to testify if the
person's testimony is necessary to carry out the powers, duties,
and functions of the board under this Act. The board may
 administer oaths to persons who testify before the board. The
board may subpoena documents if the documents are necessary to
carry out the powers, duties, and functions of the board under this
Act. On application of the board, a district court shall enforce
the subpoena in the same manner as a subpoena issued by the court.

SECTION 16. DISTRICT PLAN. (a) Under Section 14 of this
Act, the board shall formulate a plan to control and mitigate
subsidence within the district. The plan shall accomplish this
purpose by the regulation of groundwater withdrawals to maintain
sufficient artesian pressure to control and mitigate subsidence.
(b) The plan shall specify, in as much detail as
practicable, the acts, procedures, performance, and avoidance that
are necessary to carry out the purposes of this Act.

(c) When formulating the plan, the board shall compile and consider:

(1) a list of wells in the district that will be subject to regulation under this Act;

(2) an accurate estimate of groundwater production from each well or proposed well in the district;

(3) an accurate estimate of the amount of groundwater that may be produced from each well and each area in the district without causing long-term static water level decline and reduction of artesian pressure that will lead to subsidence within the district;

(4) an accurate estimate of the current and future water needs of each well owner in the district;

(5) an accurate estimate of the groundwater production capacity of each well in the district;

(6) a list of all available sources of water in the district other than groundwater;

(7) the purpose for which the water is currently used and for which it is proposed to be used in the future;

(8) information relating to formulation of a permit system; and

(9) other information necessary to carry out the management of groundwater in the district and to effectively and expeditiously accomplish the purposes of this Act.

(d) The plan shall be formulated not later than 12 months after the effective date of this Act.
H.B. No. 2819

(e) Not later than the 60th day after the date the plan is formulated, the board shall review and adopt the plan.

(f) Before the plan is adopted, the board shall hold a hearing under Section 14 of this Act to consider the proposed plan.

(g) After the hearing, the board shall make any changes it considers necessary based on evidence and material presented at the hearing and shall adopt the plan.

(h) The plan adopted under this section may be amended or repealed. A new plan may be adopted in the manner provided in this section for the adoption of the original plan. A plan, once adopted, shall remain in effect until the adoption of a new plan.

SECTION 17. TEMPORARY REGULATION. During the period that the board is formulating and adopting the plan under Section 16 of this Act, the board shall adopt temporary rules and regulations relating to the withdrawal of groundwater that are necessary to control subsidence.

SECTION 18. PERMIT REQUIREMENT. (a) The owner of a well located in the district must obtain a permit from the board to withdraw groundwater.

(b) Owners of wells operating or being drilled on the effective date of this Act must apply for a permit before January 1, 1990, and may continue to operate the well without a permit until the application for a permit for the well is acted on by the board.

(c) A permit issued under this Act is valid for a term of one year from the date it is issued unless a longer or shorter term is specified by the board. The board may issue a permit for a term
not to exceed five years in order to aid the district in the effective and expeditious performance of its duties if issuance of the permit does not impair the ability of the district to control and prevent subsidence within the district.

(d) A permit may be revoked, suspended, modified, or amended after notice and public hearing under Section 14 of this Act whenever reasonably necessary to accomplish the purposes of this Act.

(e) Permits may be renewed in the same manner as permits are issued.

(f) To obtain a permit, a person must submit an application and an application fee to the board. The application must state:

   (1) the person's name;
   (2) the person's address;
   (3) the location and wellhead elevation of the well or proposed well;
   (4) the amount of water being produced or proposed to be produced; and
   (5) any other information required by the board as necessary for the board to control and prevent subsidence in the district.

(g) The board shall use the application fee to process applications.

SECTION 19. NOTICE AND HEARING ON PERMIT. (a) The board shall hold a hearing on each application.

(b) Not later than the 20th day before the date set for the hearing, the board shall notify the applicant by certified mail,
return receipt requested, of the date, time, and location of the hearing.

(c) Except as provided by this section, the hearing shall be conducted and notice of hearing given under Section 14 of this Act.

(d) The board may consider as many applications for permits as it considers necessary at a hearing.

SECTION 20. ISSUANCE OF PERMIT. (a) Not later than the 35th day after the date of the hearing, the board shall decide whether or not to issue a permit and shall formulate the terms of the permit, if issued.

(b) In deciding whether or not to issue a permit and in setting the terms of the permit, the board shall consider:

(1) the purpose of this Act;

(2) the district plan;

(3) the quality, quantity, and availability of surface water at prices competitive with those charged by suppliers of surface water within the district; and

(4) the economic impact on the applicant of granting or denying the permit or of the terms prescribed by a permit in relation to the effect on subsidence that would result.

(c) The board shall grant a permit to an applicant whenever the board finds on sufficient evidence that:

(1) there is no other adequate and available substitute or supplemental source of surface water at prices competitive with those charged by suppliers of surface water within the district; and

(2) compliance with any provision of this Act, or any
rule or regulation of the district, will result in an arbitrary
taking of property or in the practical closing and elimination of
any lawful business, occupation, or activity, without sufficient
corresponding benefit or advantage to the people.

(d) If the board decides to issue the permit, the permit
must state the terms prescribed by the board.

(e) The permit must include the following:

(1) the name and address of the permittee;

(2) the location of the well;

(3) the date the permit begins and the date the permit
expires;

(4) conditions and restrictions placed on the
withdrawal of groundwater;

(5) adoption of water conservation measures for the
purpose of preventing waste of groundwater, including educational
programs; and

(6) any other terms and conditions necessary to
control and prevent subsidence.

SECTION 21. PERMIT NOT TRANSFERABLE. A permit issued under
this Act is not transferable unless the permittee and new owner
notify the district by certified mail, return receipt requested, of
the transfer of ownership of the well and provide the name and
address of the new owner. On receipt of that information, the
district shall issue an amended permit with the new owner of the
well as permittee. The remaining terms of the permit shall remain
unchanged.

SECTION 22. ANNUAL REPORTS. Before January 31 of each year,
each owner of a well who holds a permit under this Act shall submit
a report to the board stating the following:

(1) the person's name;

(2) the location of the well;

(3) the total amount of groundwater produced by the
well during the immediately preceding 12-month period;

(4) the total amount of groundwater produced by the
well during each separate month of the immediately preceding
12-month period;

(5) the purpose for which the groundwater was used;

(6) the date the permit expires; and

(7) any other information required by the board as
necessary for the board to control and prevent subsidence within
the district.

SECTION 23. BOARD INVESTIGATIONS. At least once each year
and at any other time that the board considers necessary, the board
may have its staff make a complete study of the groundwater
situation within the district and determine the water level, rates
of withdrawal, amounts of withdrawal, and other information
relating to the withdrawal of groundwater that may affect the
subsidence of land within the district.

SECTION 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION.
(a) Before March 31 of each year, the board shall hold a hearing
under Section 14 of this Act to determine the effects during the
preceding calendar year of groundwater withdrawal on the subsidence
of land within the district.

(b) At the hearing, the board shall consider the annual
reports submitted under Section 22 of this Act and the
investigation made under Section 23 of this Act in addition to
information represented by persons appearing before the board.
(c) After the hearing, the board shall consider all the
information presented to it and shall determine the groundwater
withdrawal in the district during the preceding calendar year and
shall make findings of the effects of groundwater withdrawal during
that year on the subsidence of land within the district. A report
of the board's findings and determinations shall be made available
for examination by any interested person.

SECTION 25. REGULATION OF SPACING AND PRODUCTION. (a) In
order to minimize as far as practicable the drawdown of the water
table and reduction of artesian pressure and to control and prevent
subsidence, the board may provide for the spacing of wells and
regulate the production of groundwater from the wells, taking into
consideration any relevant factors, including the economic impact
on well owners and the resulting effect on subsidence.
(b) Before issuing any rule, regulation, or order under this
section, the board shall set a hearing on the proposed rule,
regulation, or order and issue notice of the hearing. Notice must
be given and hearings conducted in the manner provided in Section
14 of this Act.

SECTION 26. REQUIRING WATER-METERING DEVICES. The board may
adopt orders after notice and hearing under Section 14 of this Act
requiring water-metering devices to be placed on wells.

SECTION 27. ACCESS TO PROPERTY. (a) To carry out technical
and other investigations necessary to the implementation of this
Act, the board and its agents and employees are entitled to access to all property within the district.

(b) Before entering property for the purposes stated in Subsection (a) of this section, the person seeking access shall give notice to the owner of the property in the manner provided by the rules and regulations of the district and shall present proper credentials.

(c) The board, and its agents and employees who enter private property, shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.

SECTION 28. MONITORING AND SUPERVISIONS OF DISTRICT. The district may use subsidence compaction monitors, water level observation wells, and other materials and equipment to determine the amount of groundwater that may be produced while allowing the rebound and stabilization of groundwater to a level that will halt subsidence.

SECTION 29. RESEARCH AND STUDIES. The board may conduct studies and research that it considers necessary to implement this Act. The board may use the services of geologists, hydrologists, registered professional engineers, or other expert personnel to accomplish the purposes of this section.

SECTION 30. COOPERATION WITH AND ASSISTANCE OF OTHER GOVERNMENTAL ENTITIES. The board may cooperate with and request the assistance of the Texas Water Development Board, the commission, the United States Geological Survey, local governments, and other agencies of the United States and the State of Texas in
implementing this Act.

SECTION 31. CONTRACTS. The board may enter into contracts with any person to carry out this Act.

SECTION 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT.
(a) A person who is adversely affected by a rule, regulation, order, or other official action of the board may appeal to a district court in any county in the district.
(b) For the purposes of this section, "a person who is adversely affected" includes a person residing in or owning real property in the district whose residence or real property is subsiding. An appeal under this section must be filed not later than the 45th day after the date the rule, regulation, order, or other official action appealed from is promulgated.
(c) On written request of a person who is adversely affected, the board shall make written findings and conclusions with respect to a rule, regulation, order, or other official action of the district. Not later than the 35th day after the request was made, the board shall provide a certified copy of the findings and conclusions to the person who made the request.
(d) In appeals taken under this section, the substantial evidence rule shall be used to determine the legal propriety of a rule, regulation, order, or other action of the board.

SECTION 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE COMMISSION. (a) As an alternative to the appeal provided by Section 32 of this Act, a person who is granted a permitauthorizing withdrawal of groundwater in an amount less than requested by that person may appeal the board's final decision to
the commission. The appeal shall be filed not later than the 60th
day after the date of the final order of the board.

(b) On written request of the person proposing to appeal an
order under Subsection (a) of this section, the board shall make
written findings and conclusions with respect to the order and
shall provide certified copies of the findings and conclusions to
the person making the request not later than the 35th day after the
date on which the written request is submitted to the board.

(c) The effect of a board order is stayed until the decision
of the commission in an appeal under this section is final.

(d) The review on appeal to the commission under this
section is governed by the substantial evidence rule as provided by
Section 19(e), Administrative Procedure and Texas Register Act
(Article 6252-13a, Vernon’s Texas Civil Statutes).

(e) The commission may adopt necessary rules to carry out
the provisions of this section.

(f) An appeal from a final decision of the commission is to
a district court in Travis County and is governed by the
substantial evidence rule. Any party to the proceedings before the
commission may appeal a decision of the district court in the
manner provided for other civil actions, but a party appealing a
decision of a district court is not required to provide an appeal
bond.

(g) Under this section, the commission may adopt and assess
reasonable and necessary fees adequate to recover the costs of the
commission in administering this section.

SECTION 34. PERMIT FEE. (a) At the time a permit is issued
or renewed, the board shall collect from the permittee a permit
fee, established by schedule, based on the term of the permit and
the maximum amount of groundwater authorized by the board to be
withdrawn annually from the well.

(b) The fee schedule shall be determined by the board after
a hearing under Section 14 of this Act.

(c) The board shall use the funds obtained from permit fees
to cover the costs of issuing permits and performing other
functions under this Act.

SECTION 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. On
behalf of the district, the board may:

(1) purchase, lease, own, convey, and dispose of
property both inside and outside the district necessary or
convenient to the exercise of the powers, duties, and functions of
the board under this Act;

(2) accept grants, gifts, and devises of property;

(3) construct, purchase, lease, or acquire in some
other manner any material or property necessary to carry out this
Act; and

(4) accept gifts, grants, loans, or other
distributions of money.

SECTION 36. OWNERSHIP OF GROUNDWATER. The ownership and
rights of the owner of land and his lessees and assigns in
groundwater are recognized and nothing in this Act shall be
construed as depriving or divesting the owner or his lessees and
assigns of the ownership or rights, subject to rules and
regulations and orders and other official actions of the district.
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SECTION 37. SURFACE WATER LAWS NOT APPLICABLE. The laws and administrative rules relating to the use of surface water do not apply to groundwater.

SECTION 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. The district may not sell or distribute surface water or groundwater for any purpose.

SECTION 39. EXCLUSIONS. This Act does not apply to:

(1) wells regulated under Chapter 27, Water Code;

(2) shallow wells producing water solely to prevent hazardous sand boils, dewater surface construction sites, or relieve hydrostatic uplift on permanent structures and not used to provide water for human consumption, agricultural use, manufacturing or industrial use, or water injection;

(3) shallow wells producing water solely for groundwater quality analysis and for monitoring migration of subsurface contaminants or pollution and not used to provide water for human consumption, agricultural use, manufacturing or industrial uses, or water injection;

(4) shallow wells producing water solely for recovery of contamination or pollution and not used to provide water for human consumption, agricultural use, manufacturing or industrial use, or water injection;

(5) persons owning only one well within the district if the well has a casing with an inside diameter of five inches or less; and

(6) on application for an exemption on a form prescribed by the board, other wells with a casing that has an
inside diameter of five inches or less that serve a single-family
dwelling and have a negligible effect on subsidence within the
district.

SECTION 40. DISBURSEMENT OF FUNDS. The district's money may
be disbursed by check, draft, order, or other instruments, signed
by the person or persons authorized to do so by the board's bylaws
or by resolution of the board.

SECTION 41. ACCOUNTS AND INDEPENDENT AUDIT. (a) The
district shall keep a complete system of accounts and shall have
its affairs audited each year by an independent certified public
accountant or a firm of independent certified public accountants of
recognized integrity and ability. The district shall pay for the
audit.

(b) The board shall deliver a copy of the audit to the
commissioners court of each county in the district. The board
shall keep one copy of the audit at the district office, open to
inspection by any interested person during normal office hours.

SECTION 42. DEPOSITORY BANKS. (a) The board shall
designate one or more banks within the district to serve as
depository for the funds of the district. Except as provided by
Subsection (b) of this section, all funds of the district shall be
deposited in a depository bank.

(b) To the extent provided in a trust indenture, bond
proceeds and funds pledged to pay bonds may be deposited with the
trustee bank named in the trust indenture and shall be remitted to
the bank of payment for the payment of the principal of and
interest on the bonds.
(c) To the extent that funds in a depository bank or a trustee bank are not invested or insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

(d) Before designating a depository bank, the board shall issue a notice stating the time and place the board will meet for that purpose and shall invite the banks in the district to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. The board shall publish the notice once in a newspaper of general circulation in the district or mail a copy of the notice to each bank in the district.

(e) The board shall consider the management and condition of the banks that apply and shall designate as depositories the bank or banks that offer the most favorable terms and conditions for handling of the funds of the district and that the board finds have proper management and are in condition to warrant handling of district funds.

(f) Membership on the board of an officer or director of a bank does not disqualify the bank from being designated as depository.

(g) If no applications are received before the meeting, the board shall designate a bank or banks within or outside the district on terms and conditions it finds advantageous to the district.

SECTION 43. PENALTIES. (a) If a person has violated, is violating, or is threatening to violate a provision of this Act or
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1 a rule, regulation, permit, or other order of the district, the
2 district may bring a civil action in a district court within the
3 district for an injunction to restrain the person from continuing
4 the violation or the threat of violation, for a civil penalty of
5 not less than $50 nor more than $5,000 for each violation and for
6 each day of violation, or for both injunctive relief and civil
7 penalty.
8 (b) At the request of the district, or the general manager
9 authorized by the board, the attorney general shall institute the
10 action. However, the district in its sole discretion may employ
11 attorneys of its choice to institute the action.
12 (c) The board is not required to post bond or other security
13 with the court under this section.
14 (d) On application for injunctive relief and a finding that
15 a person is violating or threatening to violate any provision of
16 this Act or any rule, permit, or other order of the district, the
17 district court shall grant any injunctive relief the facts may
18 warrant.
19
20 SECTION 44. LEGISLATIVE FINDING OF AUTHORITY. The
21 legislature finds that the requirements of Article XVI, Sections
22 59(d) and (e), of the Texas Constitution have been performed and
23 accomplished and that the legislature has the power and authority
24 to enact this Act.
25
26 SECTION 45. EMERGENCY. The importance of this legislation
27 and the crowded condition of the calendars in both houses create an
28 emergency and an imperative public necessity that the
29 constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.
H.B. No. 2819

President of the Senate

Speaker of the House

I certify that H.B. No. 2819 was passed by the House on May 16, 1989, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2819 was passed by the Senate on May 26, 1989, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: ____________________________

Date

Governor
President of the Senate

I certify that H.B. No. 2319 was passed by the House on May 16, 1989, by a non-record vote.

Speaker of the House

Chief Clerk of the House

I certify that H.B. No. 2319 was passed by the Senate on May 26, 1989, by the following vote:

Yeas 31, Nays 0

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: 'A;CT27;
A BILL TO BE ENTITLED
AN ACT
relating to the creation, administration, powers, duties, and operations of the Fort Bend Subsidence District; providing for civil penalties.

MAR 30 1989
1. Filed with the Chief Clerk.

APR 6 1989
2. Read first time and referred to Committee on

APR 19 1989
3. Reported favorably (as amended) and sent to Printer at 8:45 pm

MAY 1 1989
4. Printed and distributed at 9:22 am

MAY 1 1989
5. Sent to Committee on Calendars at 9:52 am

MAY 12 1989
6. Read second time (amended) passed to third reading (as amended) by (Non-Record Vote)

MAY 16 1989
7. Motion to reconsider and table the vote by which H.B. ________ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of ________ yeas, ________ nays, and ________ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four fifths vote of ________ yeas, ________ nays, and ________ present, not voting.

MAY 16 1989
9. Read third time (amended); finally passed (failed) by (Non-Record Vote)

MAY 16 1989
10. Caption ordered amended to conform to body of bill.

MAY 16 1989
11. Motion to reconsider and table the vote by which H.B. ________ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of ________ yeas, ________ nays, and ________ present, not voting).

MAY 16 1989
12. Ordered Engrossed at 3:39 pm

MAY 16 1989
13. Engrossed.

MAY 16 1989
14. Returned to Chief Clerk at 6:56 pm

MAY 17 1989
15. Sent to Senate.

Chief Clerk of the House

MAY 17 1989
16. Received from the House

MAY 18 1989
17. Read, referred to Committee on NATURAL RESOURCES

MAY 23 1989
18. Reported favorably

MAY 23 1989
19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

MAY 23 1989
20. Ordered not printed.

MAY 23 1989
21. Regular order of business suspended by
   (a viva voce vote.)
   ________ yeas, ________ nays.
22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of ______ yeas, ______ nays.

**MAY 26 1989**

23. Read second time Laid before Senate passed to third reading by: (a viva voce vote)

24. Caption ordered amended to conform to body of bill.

**MAY 26 1989**

25. Senate and Constitutional 3-Day Rules suspended by vote of 30 yeas, ______ nays to place bill on third reading and final passage.

**MAY 26 1989**

26. Read third time and passed by (a viva voce vote)

OTHER ACTION:

27. Returned to the House.

**MAY 26 1989**

28. Received from the Senate (with amendments)

29. House (Concurred) (Refused to Concur) in Senate Amendments by a (Non-Record Vote) (Record Vote of ______ yeas, ______ nays, ______ present, not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of ______ yeas, ______ nays, and ______ present, not voting).

**MAY 26 1989**

32. Ordered Enrolled at 1:45 P.M.