

BILL ANALYSIS

Senate Research Center
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By: Armbrister
S/C on Agriculture and Coastal Resources
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

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

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

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of directors of the Harris-Galveston Coastal Subsidence District in SECTION 1 (Sections 8801.059 and 8801.108, Special Districts Code) of this bill.

Rulemaking authority is expressly granted to the Harris-Galveston Coastal Subsidence District in SECTION 1 (Section 8801.119, Special Districts Code) of this bill.

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is rescinded in SECTION 1 (Section 8801.203, Special Districts Code) of this bill.

Rulemaking authority is expressly granted to the board of directors of the Fort Bend Subsidence District in SECTION 2 (Sections 8, 13, 25, and 36, Chapter 1045, 1989 Texas General Laws 4251 (H.B. No. 2819)) of this bill.

Rulemaking authority is expressly granted to the Fort Bend Subsidence District in SECTION 2 (Section 25, Chapter 1045, 1989 Texas General Laws 4251 (H.B. No. 2819)) of this bill.

Rulemaking authority previously granted to the board of directors of the Fort Bend Subsidence District is modified in SECTION 2 (Section 17, Chapter 1045, 1989 Texas General Laws 4251 (H.B. No. 2819)) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 8801, Special Districts Code, as follows:

CHAPTER 8801. HARRIS-GALVESTON COASTAL SUBSIDENCE DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8801.001. DEFINITIONS. Defines "agricultural crop," "florist item," "nursery grower," "nursery product," "beneficial use," and "waste."

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

Sec. 8801.003. PURPOSE; LEGISLATIVE INTENT. Makes no changes to this section.

Sec. 8801.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Makes no changes to this section.

Sec. 8801.005. DISTRICT TERRITORY. Deletes the provision that the HG district includes territory, as territory may have been modified under Subchapter J (Adding Territory to District), Chapter 36, Water Code. Redesignates Subdivision (3) as Subdivision (2) and makes a nonsubstantive change.

Sec. 8801.006. ADDITION OF ADJACENT COUNTY TO DISTRICT. Deletes existing text of this section.

SUBCHAPTER B. DISTRICT ADMINISTRATION

Sec. 8801.051. DIRECTORS. Makes no changes to this section.

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

Sec. 8801.053. BOARD POWERS AND DUTIES. Authorizes the HG board to adopt bylaws and policies to govern the affairs of the HG district to perform its purposes. Authorizes the HG board to purchase all materials, supplies, equipment, vehicles, and machinery needed by the HG district to perform its purposes. Creates a subsection from existing text.

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

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

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

(c) Requires notice of the meetings of the HG board to be given in a certain manner. Provides that neither failure to provide notice nor an insubstantial defect in notice affects the validity of any action taken at the meeting.

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

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

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

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

(d) Sets forth the procedures for filing the sworn statement, oath, and bond. Requires a duplicate original of the oath to be filed with the secretary of state within 10 days after its execution.

Sec. 8801.056. VACANCIES. Makes no changes to this section.

Sec. 8801.057. GENERAL MANAGER. Authorizes the HG board to delegate to the general manager full authority to manage and operate the affairs of the HG district subject only to orders of the HG board.

Sec. 8801.058. EMPLOYEES; BOND. Makes no changes to this section.

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

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

(c) Authorizes the HG board to include hospitalization and medical benefits to its employees as part of the compensations paid, and to adopt any plan, rule, or regulation in connection with it and amend or change the plan, rule, or regulation as it may determine.

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

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

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

Sec. 8801.061. FISCAL YEAR. [Adds new Section 8801.061.] Requires the HG district to be operated on the basis of a fiscal year equal to a calendar year.

Sec. 8801.062. ANNUAL AUDIT. [Adds new Section 8801.062.] Requires the HG board to have an annual audit made of the financial condition of the HG district. Requires the annual audit and other district records to be open to inspection during regular business hours at the principal office of the HG district.

Sec. 8801.063. ANNUAL BUDGET. [Adds new Section 8801.063.] (a) Requires the HG board to adopt an annual budget.

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

(c) Authorizes the annual budget to be amended on the HG board's approval.

Sec. 8801.064. DEPOSITORY. [Adds new Section 8801.064.] (a) Requires the HG board to name one or more banks to serve as depository for the HG district funds.

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

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

Sec. 8801.065. INVESTMENTS. [Adds new Section 8801.065.] (a) Authorizes funds of the HG district to be invested and reinvested in a certain manner.

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

SUBCHAPTER C. POWERS AND DUTIES

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

Sec. 8801.102. New heading: OTHER LAWS NOT APPLICABLE. (a) Provides that other laws governing the administration or operation of certain districts do not apply to the HG district.

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

Sec. 8801.103. SALE OR DISTRIBUTION OF WATER PROHIBITED. Makes no changes to this section.

Sec. 8801.104. AUTHORITY TO COMPEL TESTIMONY, ADMINISTER OATHS, AND ISSUE SUBPOENAS. Makes no changes to this section.

Sec. 8801.105. New heading: SUITS; REPRESENTATION OF THE ATTORNEY GENERAL. (a) Authorizes the HG district to sue and be sued in the courts of this state in the name of the HG district by and through the HG board. Requires all courts to take judicial notice of the creation of the HG district and of its boundaries.

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

(c) Provides that nothing in this chapter shall be construed to prohibit the HG district from engaging outside attorneys to initiate or defend suits on behalf of the HG district.

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

(e) Prohibits the HG district from being required to give bond for appeal, injunction, or costs in any suit to which it is a party.

(f) Authorizes the HG district, if the HG district prevails in any suit other than a suit in which it voluntarily intervenes, to seek, and requires the court to grant, in the same action, recover [sic] for attorney's fees, costs for expert witnesses, and other costs incurred by the HG district before the court. Requires the amount of attorney's fees to be fixed by the court.

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

(b) Requires the HG district to contract and be contracted with in the name of the HG district.

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

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

Sec. 8801.107. COOPERATION WITH GOVERNMENTAL ENTITIES. Makes no changes to this section.

Sec. 8801.108. RULES. Authorizes the HG board to adopt rules intended to prevent the waste of groundwater or the degradation of water quality.

Sec. 8801.109. HEARINGS. Makes no changes to this section.

Sec. 8801.110. NOTICE OF HEARINGS. Creates an exception, for hearings on permit applications, to the rule that written notice must be given to certain persons and entities. Makes a nonsubstantive change.

Sec. 8801.111. DISTRICT PLAN. Makes no changes to this section.

Sec. 8801.112. ADOPTION OF DISTRICT PLAN. Makes no changes to this section.

Sec. 8801.113. WATER CONSERVATION MEASURES. Makes no changes to this section.

Sec. 8801.114. DISTRICT RESEARCH. Authorizes the HG district to collect any information the HG board deems necessary. Creates a subsection from existing text.

Sec. 8801.115. STUDIES BY BOARD STAFF. Makes no changes to this section.

Sec. 8801.116. ACCESS TO PROPERTY. Makes no changes to this section.

Sec. 8801.117. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION. Requires the report (on the HG board's findings regarding groundwater withdrawal) to be submitted to the appropriate regional planning group along with a copy of the most recently approved district plan adopted under Section 8801.112.

Sec. 8801.118. MONITORING AND SUPERVISION BY THE DISTRICT. Authorizes the HG district to use global positioning systems and other geodetic survey methods to monitor land surface elevations and measure subsidence. Authorizes the HG district to coordinate monitoring and data-collection activities with other entities, including private

entities and federal, state, or local governmental entities. Creates a subsection from existing text.

Sec. 8801.119. REGULATION OF SPACING AND GROUNDWATER WITHDRAWAL. Authorizes the HG district to adopt different rules for each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the HG district, or each geographic area overlying an aquifer or subdivision of an aquifer located in whole or in part within the boundaries of the HG district.

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

Sec. 8801.121. POLICIES. [Adds new Section 8801.121.] Requires the HG board to adopt in writing a code of ethics for district personnel and certain other policies.

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

Sec. 8801.123. OPEN OR UNCOVERED WELLS. [Adds new Section 8801.123.] (a) Authorizes the HG district to require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a certain type of covering except when it is in actual use.

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

SUBCHAPTER D. REGULATORY PROVISIONS

Sec. 8801.151. GROUNDWATER WITHDRAWALS SUBJECT TO BOARD RULE. Makes no changes to this section.

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

Sec. 8801.153. RESTRICTION ON REQUIREMENTS FOR CERTAIN MUNICIPALITIES. Makes no changes to this section.

Sec. 8801.154. WELL REGISTRATION. Makes no changes to this section.

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

(b) Requires a well to remain permitted as long as the well is operational.

(c) Provides that a violation occurs on the first day the drilling, alteration, or operation begins. Provides that each day of a continuing violation constitutes a separate violation.

Sec. 8801.156. APPLICATION FOR PERMIT. Makes no changes to this section.

Sec. 8801.157. NOTICE AND HEARING ON PERMIT. Authorizes notice to the applicant to be given by regular mail, in addition to the authorization for it to be given by certified mail. Makes nonsubstantive changes.

Sec. 8801.158. ISSUANCE OF PERMIT. Requires the HG board to consider, in deciding whether to issue a permit and in setting the terms of the permit to consider the applicant's compliance with the requirements of this chapter or any rule, permit, or other order of the HG district. Authorizes the HG board to condition issuance of a permit on

the resolution of a prior or continuing violation of this chapter or any rule, permit, or order of the HG district. Makes nonsubstantive changes.

Sec. 8801.159. TERM OF PERMIT. Makes no changes to this section.

Sec. 8801.160. RENEWAL OF PERMIT. Makes no changes to this section.

Sec. 8801.161. PERMIT FEES. (a) Authorizes the HG board, in addition to the regular permit fee, to establish a disincentive permit fee to serve as a regulatory tool by creating a disincentive to continued over-reliance on groundwater.

(b) Makes conforming changes.

(c) Provides that the amount of a permit fee applicable to a well used for irrigating agricultural crops shall not exceed a certain amount. Deletes the requirement that the amount of the permit fee be the lowest of several figures calculated by various methods.

(d) Authorizes the HG district to set fees for administrative acts of the HG district, such as receiving applications for permits or permit amendments. Deletes existing text of this subsection.

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

Sec. 8801.162. ANNUAL REPORT. Makes no changes to this section.

Sec. 8801.163. CONVERSION TO SURFACE WATER. (a) Makes no changes to this subsection.

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

(c) Makes no changes to this subsection.

(d) Redesignated from existing Subsection (e). Deletes the allowance that a person use a certain amount of groundwater in addition to the amount authorized by the HG board.

Sec. 8801.164. MONITORING OF ALTERNATIVE WATER SUPPLY. Deletes existing text of this section.

SUBCHAPTER E. APPEAL AND ENFORCEMENT PROVISIONS

Sec. 8801.201. APPEAL OF SURFACE WATER RATES. Makes no changes to this section.

Sec. 8801.202. APPEAL OF DISTRICT ACTIONS. (a) Authorizes a suit by a person adversely affected by a rule, order, or other official action of the HG district to sue in district court, only after all administrative appeals to the HG district are final. Makes a conforming change.

(b) Makes no changes to this subsection.

(c) Provides that the burden of proof is on the petitioner. Requires that the challenged law, rule, order, or act be deemed prima facie valid.

(d) Requires a suit brought under this section to be advanced for trial and determined as expeditiously as possible. Prohibits postponements or continuances from being granted except for reasons considered imperative by the court.

Sec. 8801.203. ALTERNATIVE APPEAL OF CERTAIN DISTRICT ACTIONS TO COMMISSION. Deletes existing text of this section.

Sec. 8801.204. INJUNCTIVE RELIEF; CIVIL PENALTY. Requires the court, in a suit to recover a civil penalty or for both injunctive relief and a civil penalty, if the court finds that a person has violated or is violating a provisions of this chapter or a rule, permit, or order of the HG district, to assess a civil penalty in the amount provided by this section.

SECTION 2. Amends Chapter 1045, 1989 Texas General Laws 4251 (H.B. No. 2819), as follows:

Section 1. PURPOSE AND INTENT. Makes a nonsubstantive change.

Section 2. DEFINITIONS. Redefines "commission." Defines "agricultural crop," "florist item," "nursery grower," "nursery product," "beneficial use," and "waste."

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

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

Section 5. BOARD OF DIRECTORS. (a) Makes no changes to this subsection.

(b) Makes no changes to this subsection.

(c) Makes no changes to this subsection.

(d) Makes no changes to this subsection.

(e) Deletes a provision relating to adding adjoining counties to the FB district. Redesignates existing Subsection (f) as Subsection (e). Deletes the requirement for the county judge to set the time, date, and place to choose the initial board of directors of the FB district (FB board).

(f) Redesignated from existing Subsection (h). Makes conforming and nonsubstantive changes.

(g) Redesignated from existing Subsection (i).

(h) Redesignated from existing Subsection (j). Deletes the requirement that the county judge set the time, date, and place for the initial meeting of the FB board.

(i) Redesignated from existing Subsection (l). Makes a nonsubstantive change.

(j) Redesignated from existing Subsection (m).

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

(l) Redesignated from Subsection (o). Makes a conforming change.

(m) Requires each director to make the sworn statement and take the oath of office prescribed by the constitution for public officers, rather than to take the oath of office prescribed by law for county commissioners. Redesignated from existing Subsection (p).

(n) Redesignated from existing Subsection (q).

(o) Provides that a meeting of the committee of the FB board where less than a quorum is present is not subject to the provisions of the Open Meetings Act, Chapter 551, Government Code. Requires notice of meetings of the FB board to be given as set forth in the Open Meetings Act, and provides that failure to give notice or an insubstantial defect in notice does not affect the validity of any action taken at the meeting. Redesignated from existing Subsection (r).

Section 6. New heading: POWERS AND DUTIES IN GENERAL; OTHER LAWS NOT APPLICABLE. (a) Makes no changes to this subsection.

(b) Makes no changes to this subsection.

(c) Makes no changes to this subsection.

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

(e) Provides that other laws governing the administration of subsidence districts do not apply to the district, and that this Act prevails over any other law in conflict with or inconsistent with this Act.

(f) Authorizes the FB board to adopt bylaws and policies to govern the affairs of the FB district to perform its purposes. Authorizes the FB board to purchase all materials, supplies, equipment, vehicles, and machinery needed by the FB district to perform its purposes.

(g) Requires the FB board to adopt a code of ethics and certain policies in writing.

Section 7. GENERAL MANAGER. Requires the FB board to determine the compensation and terms of office and employment for the general manager. Authorizes the FB board to discharge the general manager by majority vote.

Section 8. New heading: EMPLOYEES; BENEFITS. Requires the general manager of the FB board, rather than the FB board, to employ personnel. Deletes the provision that the board determines the term of office of the general manager and may discharge the general manager on majority vote. Authorizes the FB board to provide for and administer retirement, disability, and death compensation funds for the employees of the FB district. Authorizes the FB board to establish a public retirement system and provide for a deferred compensation plan. Authorizes the FB board to include hospitalization and medical benefits as part of the compensation paid employees. Authorizes the FB board to adopt or modify any plans, rules, or regulations in connection with it. Authorizes the FB board to establish a sick leave pool for employees in a certain manner. Makes conforming changes.

Section 9. DISTRICT OFFICE. Makes no changes to this section.

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

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

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

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

(d) Authorizes the FB district, if it prevails in any suit other than a suit in which it voluntarily intervenes, to seek, and requires the court to grant, recover [sic] for attorney's fees, costs for expert witnesses, and other costs incurred by the FB district before the court. Requires the amount of attorney's fees to be fixed by the court.

Section 12. SEAL. Makes no changes to this section.

Section 13. RULES AND REGULATION. Authorizes the FB board to adopt rules intended to prevent the waste of groundwater or the degradation of water quality. Makes a nonsubstantive change.

Section 14. HEARINGS. Creates an exception, for hearings on permit applications, to the rule that the FB district must mail notice of the hearing to certain persons. Requires the FB board to mail notice to certain persons on the 10th, rather than 20th, day before a hearing. Authorizes the FB board to use hearing examiners to hear any subject set for the hearing, but requires the FB board to make the final decision on the subject. Makes conforming and nonsubstantive changes.

Section 15. COMPELLING TESTIMONY, SWEARING WITNESSES, AND SUBPOENAS. Makes no changes to this section.

Section 16. DISTRICT PLAN. Deletes the provision that the FB board formulate a plan to control and mitigate subsidence in the district specifically under Section 14 of this Act. Modifies the factors the FB board must consider in formulating the plan. Requires the initial plan, rather than simply the plan, to be formulated not later than 12 months after the initial effective date of this Act. Makes conforming changes.

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

Section 18. PERMIT REQUIREMENT. (a) Requires the owner of a well located in the FB district to obtain a permit from the FB board before drilling, equipping, or completing the well, substantially altering the size of the well or a well pump, or operating the well, rather than to obtain a permit to withdraw groundwater.

(b) Requires a well to remain permitted as long as the well is operational. Provides that a violation occurs on the first day the drilling, alteration, or operation begins, and each day of a continuing violation constitutes a separate violation. Deletes the provision relating to current owners of wells applying for permits.

(c) Makes no changes to this subsection.

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

(e) Makes no changes to this subsection.

(f) Makes no changes to this subsection.

(g) Makes no changes to this subsection.

Section 19. NOTICE AND HEARING ON PERMIT. Requires the FB board to notify the applicant of the hearing not later than the 10th, rather than 20th, day before the hearing. Authorizes the FB board to notify the applicant by regular mail or certified mail, return receipt requested, rather than requiring the FB board to notify the applicant by certified mail, return receipt requested. Deletes the requirement that the hearing be conducted and notice given under Section 14. Redesignates Subsection (d) as Subsection (c).

Section 20. ISSUANCE OF PERMIT. Requires the FB board to decide whether to issue a permit not later than the 60th, rather than 35th, day after the date of the hearing. Requires the FB board, in deciding whether to issue a permit and in setting the terms of the permit, to consider the applicant's compliance with the requirements of this chapter or any rule, permit, or other order of the district, and any other relevant factors. Deletes the requirement that the permit include adoption of water conservation measures for the purpose of preventing waste of groundwater, including educational programs. Authorizes the FB board to condition the issuance of a permit on the resolution, including by payment of a civil penalty, or a prior or continuing violation of this Act, or any rule, permit or order of the FB district. Makes nonsubstantive changes.

Section 21. PERMIT NOT TRANSFERABLE. Makes no changes to this section.

Section 22. ANNUAL REPORTS. Deletes the requirement that the owner of a well, in the annual report to the FB board, include the date the permit expires.

Section 23. BOARD INVESTIGATION. Makes no changes to this section.

Section 24. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION. Deletes the provision that the annual hearing to determine the effects during the preceding year or groundwater withdrawal be conducted under Section 14. Requires the FB board's report on its findings regarding the prior year's groundwater withdrawal to be submitted to the appropriate regional water planning group along with a copy of the most recently approved district plan adopted under Section 16. Makes a nonsubstantive change.

Section 25. REGULATION OF SPACING AND PRODUCTION. (a) Makes no changes to this subsection.

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

(c) Authorizes the FB district to adopt different rules for each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the FB district, or each geographic area overlying an aquifer or subdivision of an aquifer located in whole or in part within the boundaries of the FB district.

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

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

Section 26. REQUIRING WATER-METERING DEVICES. Authorizes the FB board to require, rather than adopt orders after notice and hearing under Section 14 requiring,

water-metering devices to be placed in wells in the district. Authorizes the FB board to adopt standards for meter accuracy, testing, and calibration.

Section 27. ACCESS TO PROPERTY. Makes no changes to this section.

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

Section 29. RESEARCH AND STUDIES. Authorizes the FB district to collect any information the FB board deems necessary, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir. Creates a subsection from existing text.

Section 30. COOPERATION WITH AND ASSISTANCE OF OTHER GOVERNMENTAL ENTITIES. Makes no changes to this section.

Section 31. CONTRACTS. Provides that the FB district shall contract, and be contracted with, in the name of the FB district.

Section 32. APPEAL OF DISTRICT ACTIONS TO A DISTRICT COURT. Provides that an appeal may only be filed by a person adversely affected by a rule, regulation, order, or other official action of the FB board after all administrative appeals to the FB district are final. Defines the substantial evidence rule, as provided by Subchapter G (Contested Cases: Judicial Review), Chapter 2001, Government Code. Provides that the burden of proof is on the petitioner, and the challenged law, rule, order, or act shall be deemed prima facie valid. Requires a suit brought under this section to be advanced for trial and determined as expeditiously as possible. Provides that no postponement or continuance shall be granted except for reasons considered imperative by the court.

Section 33. APPEAL OF CERTAIN DISTRICT ACTIONS TO THE COMMISSION. Deletes existing text of this section.

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

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

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

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

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

(b) Authorizes the FB district to cooperate with the commission and any local government to establish water conservation goals, guidelines, and plans to be used in the FB district.

(c) Authorizes the FB district to contract with a local government in the FB district to provide services needed to meet water conservation requirements that

the commission establishes. Deletes the provisions relating to ownership of groundwater.

Section 37. New heading: OPEN OR UNCOVERED WELLS. (a) Authorizes the FB district to require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a certain type of covering except when it is in actual use.

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

Section 38. SALE AND DISTRIBUTION OF WATER PROHIBITED. Makes no changes to this section.

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

Section 40. DISBURSEMENT OF FUNDS. (a) Authorizes the FB district's money to be disbursed by electronic fund transfer. Creates this subsection from existing text.

Section 41. New heading: ACCOUNTS AND INDEPENDENT AUDIT; BUDGET. (a) Creates this subsection from existing text.

(b) Deletes the requirement that the FB board deliver a copy of the audit to the commissioners court of each county in the FB district. Creates this subsection from existing text.

(c) Requires the FB district to be operated on the basis of a fiscal year equal to a calendar year.

(d) Requires the FB board to adopt an annual budget containing a complete financial statement. Authorizes the annual budget to be amended on the FB board's approval.

Section 42. New heading: DEPOSITORY BANKS; INVESTMENTS. (a) Deletes an exception, as provided by Subsection (b), to the rule that all funds of the FB district shall be deposited in a depository bank. Provides that this subsection does not limit the power of the FB board to place a portion of the FB district's funds on time deposit or to purchase certificates of deposit or other authorized investments.

(b) Deletes existing text of Subsection (b). Requires the funds to be secured in a certain manner, to the extent that they are not invested or insured by the Federal Deposit Insurance Corporation. Redesignated from existing Subsection (c).

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

(d) Redesignated from existing Subsection (e).

(e) Redesignated from existing Subsection (f).

(f) Redesignated from existing Subsection (g).

(g) Authorizes funds of the FB district to be invested and reinvested in a certain manner. Authorizes the FB board, by resolution to provide that an authorized representative of the FB district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the FB district for certain investments.

Section 43. PENALTIES. Requires the attorney general to institute the action for a violation at the request of the FB board, rather than the FB district. Provides that the FB district, rather than the FB board, is not required to post bond or other security with the court. Requires the court, in a suit to recover a civil penalty or for both injunctive relief and a civil penalty, if the court finds that a person has violated or is violating a provisions of this chapter or a rule, permit, or order of the FB district, to assess a civil penalty in the amount provided by this section.

Section 44. LEGISLATIVE FINDING OF AUTHORITY. Makes no changes to this section.

Section 45. EMERGENCY. Makes no changes to this section.

SECTION 3. Effective date: upon passage or September 1, 2005.