

SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 8801. HARRIS-GALVESTON
SUBSIDENCE DISTRICT

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TITLE 6. WATER AND WASTEWATER

SUBTITLE H. DISTRICTS GOVERNING GROUNDWATER

CHAPTER 8801. HARRIS-GALVESTON SUBSIDENCE DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8801.001. DEFINITIONS. In this chapter:

(1) "Agricultural crop":

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

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

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

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

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

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "District" means the Harris-Galveston Subsidence District.

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

(4) "Groundwater" means water located beneath the earth's surface. The term does not include water produced with oil in the production of oil and gas.

(4-a) "Nursery grower" means a person who grows in any medium more than 50 percent of the nursery products or florist items

that the person sells or leases. A person grows a nursery product or florist item if the person cultivates or propagates the product or item by engaging in activities associated with the production or multiplying of stock, including the development of new plants from cuttings, grafts, plugs, or seedlings. The term does not include a person who merely holds or maintains a nursery product or florist item before sale or lease.

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

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

(5-a) "Waste" means:

(A) the withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial use or if the amount used is more than is reasonably required for a beneficial use;

(C) the escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;

(D) the pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or other harmful matter admitted from another stratum or from the surface of the ground;

(E) wilfully or negligently causing, suffering, or allowing groundwater to escape or flow into a river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto land that does not belong to the owner of the well unless the discharge is authorized by a permit, rule, or order issued by the commission under Chapter 26, Water Code;

(F) the escape of groundwater pumped for irrigation as irrigation tailwater onto land that does not belong

to the owner of the well unless the occupant of the land receiving the discharge granted permission for the discharge; or

(G) wilfully causing or knowingly permitting the water produced from an artesian well to run off the owner's land or to percolate through the stratum above which the water is found, as prescribed by Section 11.205, Water Code.

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

(7) "Well" means a facility, device, or method used to withdraw groundwater from the groundwater supply.

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

(9) "Withdrawal" means the act of extracting by pumping or some other method.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 2, eff. May 27, 2005.

Sec. 8801.002. NATURE OF DISTRICT. The district is a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, and is essential to accomplish the purposes of that section.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 3, eff. May 27, 2005.

Sec. 8801.003. PURPOSE; LEGISLATIVE INTENT. (a) The purpose of this chapter is to provide for the regulation of groundwater withdrawal in the district to end subsidence, which contributes to or precipitates flooding or overflow of the district, including rising water resulting from a storm or hurricane.

(b) The legislature intends that the district shall

administer and enforce this chapter and exercise the district's rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purpose of this chapter.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

(a) The district is created to serve a public use and benefit.

(b) The works and projects accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution, will benefit all the land and other property included in the district.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.005. DISTRICT TERRITORY. The district includes the territory located within the boundaries of Harris County and Galveston County, as that territory may have been modified under:

(1) Section 8801.006 or its predecessor statute, former Section 151.003(b), Water Code; or

(2) other law.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 3, eff. May 27, 2005.

SUBCHAPTER B. DISTRICT ADMINISTRATION

Sec. 8801.051. DIRECTORS. (a) The district is governed by a board composed of 19 directors appointed as provided by this section. Directors serve for two-year, staggered terms. A director must be a qualified voter of the district.

(b) The mayor of the municipality with the largest population of any municipality in the district shall appoint six directors from that municipality. One of those directors must be a representative of industry.

(c) The mayor of the municipality with the second largest population of any municipality in the district shall appoint one director from that municipality.

(d) The mayors of all municipalities in Galveston County shall jointly appoint two directors from those municipalities.

(e) The mayor of Baytown shall appoint one director from the municipality of Baytown.

(f) The Commissioners Court of Harris County shall appoint three directors who are not residents of the municipality that has the largest population of any municipality in the district. One of those directors must be a representative of agriculture, one must be a representative of industry, and one must be a representative of municipal utility districts and a resident of a municipal utility district in the district.

(g) The Commissioners Court of Galveston County shall appoint three directors. One of those directors must be a representative of municipal utility districts and a resident of a municipal utility district in the district.

(h) The president of the Clear Lake City Water Authority and the mayors of the municipalities of Deer Park, Galena Park, La Porte, Nassau Bay, and Seabrook shall jointly appoint one director from Harris County.

(i) The mayors of the municipalities of West University Place, Southside Place, Bellaire, and Jacinto City shall jointly appoint one director from Harris County.

(j) The mayors of the municipalities of Humble, Piney Point Village, Hedwig Village, Bunker Hill Village, Hunters Creek Village, Hilshire Village, and Spring Valley shall jointly appoint one director from Harris County.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.052. FEES OF OFFICE; REIMBURSEMENT. (a) A director is entitled to fees of office of not more than \$150 a day for each day the director actually spends performing the duties of a director. The fees of office may not exceed \$9,000 a year.

(b) Each director is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

(c) To receive fees of office and reimbursement for expenses, each director must file with the district a verified statement that shows the number of days spent in the service of the district and a general description of the duties performed for each

day of service.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 4, eff. May 27, 2005.

Sec. 8801.053. BOARD POWERS AND DUTIES. (a) In addition to the powers and duties described in this chapter, the board has all other powers necessary or convenient to carry out its responsibilities and accomplish the purpose of this chapter.

(b) The board may adopt bylaws and policies as necessary to accomplish its purposes.

(c) The board may purchase materials, supplies, equipment, vehicles, and machinery needed by the district to accomplish its purposes.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 4, eff. May 27, 2005.

Sec. 8801.054. OFFICERS. (a) Each year, at the first meeting after the new directors take office, the directors shall select from among the directors a chair, a vice chair, and a secretary.

(b) The chair shall preside over meetings of the board and execute all documents on behalf of the district. The vice chair shall act as chair if the chair is absent or disabled. The secretary shall ensure that all records and books of the district are properly kept and attest to the chair's signature on all documents. The board may authorize another director, the general manager, or any employee to execute documents on behalf of the district and to certify the authenticity of any record of the district.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 4, eff. May 27, 2005.

Sec. 8801.055. MEETINGS. (a) The board shall hold regular meetings once each month at a time set by the board. The board may

hold special meetings at the call of the chair or on the written request of at least three directors.

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

(c) The board shall give notice of meetings of the board as provided by Chapter 551, Government Code. Failure to provide notice of a regular meeting or an insubstantial defect in notice of any meeting does not affect the validity of any action taken at the meeting.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 4, eff. May 27, 2005.

Sec. 8801.0551. QUORUM. A majority of the membership of the board constitutes a quorum for any meeting, and a concurrence of a majority of the entire membership of the board is sufficient for transacting any district business.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 4, eff. May 27, 2005.

Sec. 8801.0552. SWORN STATEMENT, BOND, AND OATH OF OFFICE.

(a) As soon as practicable after a director is appointed, the director shall make the sworn statement prescribed by the constitution for public officers.

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

(c) Before beginning to perform the duties of office, each director shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of the director's duties. A director's bond must be approved by the board and paid for by the district.

(d) The sworn statement shall be filed as prescribed by the constitution. The bond and oath shall be filed with the district and retained in its records. A duplicate original of the oath shall also be filed with the secretary of state not later than the 10th day after the date on which the oath was executed. The new

director may begin to perform the duties of office before the oath is filed.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 4, eff. May 27, 2005.

Sec. 8801.056. VACANCIES. If a vacancy occurs on the board, a person representing the same area as the vacating director shall be appointed as provided by Section 8801.051 to serve the unexpired term.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.057. GENERAL MANAGER. (a) The board shall employ a general manager, who serves as the chief administrative officer of the district. The board may delegate to the general manager full authority to manage district affairs or operate the district subject only to orders by the board.

(b) The duties of the general manager include:

- (1) administering board orders;
- (2) coordinating with state, federal, and local agencies;
- (3) overseeing development of district plans and programs; and
- (4) performing other duties assigned by the board.

(c) The board shall determine the compensation and terms of office and employment for the general manager.

(d) The board by majority vote may discharge the general manager.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 5, eff. May 27, 2005.

Sec. 8801.058. EMPLOYEES; BOND. (a) The general manager shall employ persons necessary to properly handle district business and operation. The general manager may employ attorneys, bookkeepers, engineers, and other expert and specialized personnel considered necessary.

(b) The general manager shall determine the compensation paid to district employees.

(c) The general manager may discharge a district employee.

(d) The board shall require an employee who collects, pays, or handles district funds to furnish a good and sufficient bond. The bond must be in an amount sufficient to safeguard the district and must be:

(1) payable to the district; and

(2) conditioned on the faithful performance of the employee's duties and on accounting for all district funds and property in the employee's hands.

(e) The district shall pay for the bond described by Subsection (d).

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.059. EMPLOYEE BENEFITS. (a) The board may provide for and administer retirement, disability, and death compensation funds for the employees of the district.

(b) The board may establish a public retirement system as provided by Chapter 810, Government Code, or provide for a deferred compensation plan as described by Section 457, Internal Revenue Code of 1986.

(c) The board may include hospitalization and medical benefits for its employees as part of the compensation paid to employees and may adopt or amend a plan or rule as necessary to provide hospitalization and medical benefits.

(d) The board may establish a sick leave pool for employees of the district in the same manner as a sick leave pool for state employees is authorized to be created under Subchapter A, Chapter 661, Government Code.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 6, eff. May 27, 2005.

Sec. 8801.060. EXPENDITURES. (a) The district's money may be disbursed only by check, draft, order, electronic funds transfer, or other instrument. The board may by resolution allow disbursements to be transferred by federal reserve wire system to accounts in the name of the district.

(b) Disbursements must be signed by at least two directors unless the board by resolution allows certain employees of the

district, or a combination of employees and directors, to sign disbursements on behalf of the board.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 6, eff. May 27, 2005.

Sec. 8801.061. FISCAL YEAR. The fiscal year of the district is the calendar year.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 6, eff. May 27, 2005.

Sec. 8801.062. ANNUAL AUDIT. (a) The board annually shall order an audit to be made of the financial condition of the district.

(b) The annual audit and other district records must be open for inspection during regular business hours at the principal office of the district.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 6, eff. May 27, 2005.

Sec. 8801.063. ANNUAL BUDGET. (a) The board shall adopt an annual budget.

(b) The budget must contain a complete financial statement, including a statement of:

- (1) the outstanding obligations of the district;
- (2) the amount of cash on hand to the credit of each fund of the district;
- (3) the amount of money received by the district from all sources during the previous year;
- (4) the amount of money available to the district from all sources during the ensuing year;
- (5) the amount of the balances expected at the end of the year in which the budget is being prepared;
- (6) the estimated amount of revenues and balances available to cover the proposed budget; and
- (7) the estimated fee revenues that will be required.

(c) The board may amend the annual budget adopted under Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 6, eff. May 27, 2005.

Sec. 8801.064. DEPOSITORY. (a) The board shall name one

or more banks to serve as depository for district money.

(b) District money must be deposited as received with the depository bank and must remain on deposit. This subsection does not limit the power of the board to place a portion of the district's money on time deposit or to purchase certificates of deposit or other authorized investments.

(c) To the extent that money in the depository is not insured by the Federal Deposit Insurance Corporation, the money must be secured as provided by Chapter 2257, Government Code.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 6, eff. May 27, 2005.

Sec. 8801.065. INVESTMENTS. (a) District money may be invested and reinvested in accordance with Chapter 2256, Government Code.

(b) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest district money and provide for money to be withdrawn from the appropriate district accounts for investments on terms that the board considers advisable.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 6, eff. May 27, 2005.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8801.101. DISTRICT POWERS AND DUTIES. Except as provided by Section 8801.103, the district has all of the rights, powers, privileges, and authority necessary and convenient to exercise its jurisdiction and powers as provided by this chapter, whether the jurisdiction and powers are specifically authorized by this chapter or implied from this chapter or other law.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 7, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 729, Sec. 2.02, eff. April 1, 2007.

Sec. 8801.102. NONAPPLICABILITY OF OTHER LAW. (a) Other laws governing the administration or operation of conservation and reclamation districts created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, including Chapters 36

and 49, Water Code, do not apply to the district.

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

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 7, eff. May 27, 2005.

Sec. 8801.103. SALE OR DISTRIBUTION OF WATER PROHIBITED.

The district may not sell or distribute surface water or groundwater for any purpose.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.104. AUTHORITY TO COMPEL TESTIMONY, ADMINISTER OATHS, AND ISSUE SUBPOENAS. If necessary to carry out its powers, duties, and functions under this chapter, the board may:

(1) compel the testimony of a person;

(2) administer an oath to a person compelled to testify before the board or a person designated by the board; and

(3) issue a subpoena to compel the testimony of a person and the production of a document.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.105. SUITS BY OR AGAINST THE DISTRICT; REPRESENTATION BY ATTORNEY GENERAL. (a) The district may sue and be sued in the courts of this state in the name of the district by and through the board.

(b) At the request of the district, the attorney general shall defend the district in suits brought against the district in all district and appellate courts of this state and in the courts of the United States.

(c) The district may engage outside attorneys to initiate or defend suits on behalf of the district.

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

(e) The district is not required to give bond for appeal,

injunction, or costs in any suit to which it is a party.

(f) If the district prevails in any suit other than a suit in which it voluntarily intervenes, the district may seek and the court shall grant, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the district before the court. The court shall set the amount of the attorney's fees.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 7, eff. May 27, 2005.

Sec. 8801.106. GRANTS; CONTRACTS. (a) The district may make or accept a grant, gratuity, advance, or loan in any form to or from any public source approved by the board, including a governmental entity, and may enter into a contract, agreement, or covenant that the board considers appropriate in connection with a grant, gratuity, advance, or loan.

(b) The district may enter into contracts only in the district's name.

(c) The district may purchase property from another governmental entity by negotiated contract without securing appraisals or advertising for bids.

(d) The district may use the reverse auction procedure, as defined by Section 2155.062, Government Code, for purchasing.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 7, eff. May 27, 2005.

Sec. 8801.107. COOPERATION WITH GOVERNMENTAL ENTITIES. In implementing this chapter, the board may request the assistance of and cooperate with a local government or an agency of this state or of the United States.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.108. RULES. (a) After notice and hearing, the board shall adopt rules designed to expeditiously and effectively implement this chapter and accomplish its purpose, including rules

governing procedures before the board. The board may adopt rules to prevent the waste of groundwater or the degradation of water quality. The board shall enforce the rules.

(b) The board shall compile its rules in a book and make the rules available for use and inspection at the district's principal office.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 8, eff. May 27, 2005.

Sec. 8801.109. HEARINGS. (a) Board hearings must be conducted as provided by this section and Section 8801.110.

(b) At a regular meeting of the board, the board shall set the dates, times, and locations for hearings to be held under this chapter. The board may hold hearings at any location in the district and may recess a hearing from day to day.

(c) A person may appear at a hearing and present testimony, evidence, exhibits, or other information in person or by counsel, or both.

(d) The board may use hearing examiners to hear a subject set for the hearing, but the board must make the decision on the subject. Procedures for use of hearing examiners shall be provided by rule.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.110. NOTICE OF HEARINGS. (a) Except as provided by this section, notice of hearings shall be provided according to Chapter 551, Government Code.

(b) At a meeting at which the board sets a hearing, the board shall direct the general manager of the district to give notice of the hearing.

(c) Written notice of a hearing other than a hearing on a permit application must be given to:

(1) each county and municipal government in the district; and

(2) each person that the board believes has an interest in the subject matter of the hearing.

(d) Notice of a hearing must be published at least once in a newspaper of general circulation in each county in the district.

(e) A copy of the notice must be posted in the place where notices are usually posted at the county courthouse of each county in the district.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 9, eff. May 27, 2005.

Sec. 8801.111. DISTRICT PLAN. (a) The board shall formulate a plan to control and prevent subsidence in the district.

(b) The plan must:

(1) reduce groundwater withdrawals to amounts that will restore and maintain sufficient artesian pressure to control and prevent subsidence; and

(2) specify in as much detail as practicable the acts, procedures, performance, and avoidance that are necessary to accomplish the purpose of this chapter.

(c) Information gathered for formulating the plan must include:

(1) a list of all wells in the district that are subject to regulation under this chapter;

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

(3) the purposes for which the water described by Subdivision (2) is used and for which it is proposed to be used;

(4) accurate estimates of:

(A) groundwater withdrawal from all wells or proposed wells in the district;

(B) the amount of groundwater that may be withdrawn from each area in the district without causing a reduction of artesian pressure that will lead to subsidence in the district; and

(C) current and future water needs in the district;

(5) information relating to formulating a permit system; and

(6) other information and material necessary to manage groundwater in the district and to effectively and expeditiously accomplish the purpose of this chapter.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.112. ADOPTION OF DISTRICT PLAN. (a) The board shall hold a hearing to consider a plan formulated under Section 8801.111.

(b) After the hearing, the board shall:

(1) make any changes it considers necessary according to evidence and material presented at the hearing; and

(2) adopt the plan.

(c) The board may amend or repeal a plan adopted under this section and may adopt a new plan as provided by this section for the adoption of the original plan.

(d) An adopted plan remains in effect until a new plan is adopted.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.113. WATER CONSERVATION MEASURES. (a) The board may adopt rules requiring the use of water conservation measures to reduce groundwater withdrawals.

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

(c) The district may contract with a local government in the district to provide services needed to meet water conservation requirements that the commission establishes.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.114. DISTRICT RESEARCH. (a) The district may conduct studies and research that the board considers necessary to implement this chapter. In conducting studies and research, the district may use the services of geologists, hydrologists, licensed professional engineers, licensed professional geoscientists, or other expert personnel.

(b) The district may collect any information that the board

determines is necessary to implement this chapter, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 10, eff. May 27, 2005.

Sec. 8801.115. STUDIES BY BOARD STAFF. At least once each year and at any other time the board considers necessary, the board shall have its staff and, if necessary, the staff of the Texas Water Development Board make a complete study of the groundwater in the district and determine:

(1) the water level;

(2) the rates and amounts of groundwater withdrawal;

and

(3) other information relating to groundwater withdrawal that may effect subsidence in the district.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.116. ACCESS TO PROPERTY. (a) To perform technical and other investigations needed to implement this chapter, the board and its agents and employees are entitled to access to all property in the district.

(b) Before entering property for the purposes of this section, the person seeking access shall:

(1) give notice to the owner of the property as provided by district rules; and

(2) present proper credentials.

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

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.117. ANNUAL GROUNDWATER WITHDRAWAL DETERMINATION. (a) Not later than March 31 of each year, the board shall hold a hearing to determine the effects of groundwater withdrawal during the preceding calendar year on subsidence in the

district.

(b) At the hearing, the board shall consider information provided under Sections 8801.115 and 8801.162 and information presented by persons appearing before the board.

(c) After the hearing, the board shall:

(1) consider all information presented to it;

(2) determine groundwater withdrawal in the district during the preceding calendar year; and

(3) make findings on the effects of groundwater withdrawal during the preceding calendar year on subsidence in the district.

(d) The board's findings and determinations under Subsection (c) shall be included in a report adopted by the board. The board shall make the report available for examination by any interested person.

(e) The board shall submit the report adopted under Subsection (d) and a copy of the most recent district plan adopted under Section 8801.112 to the appropriate regional water planning group.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 11, eff. May 27, 2005.

Sec. 8801.118. MONITORING AND SUPERVISION BY DISTRICT.

(a) 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 withdrawn while allowing groundwater to rebound and stabilize to a level that will halt subsidence.

(b) The district may use global positioning systems and other geodetic survey methods to monitor land surface elevations and measure subsidence. The district may coordinate monitoring and data collection activities with other entities, including private entities and federal, state, or local governmental entities.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 12, eff. May 27, 2005.

Sec. 8801.119. REGULATION OF SPACING AND GROUNDWATER WITHDRAWAL. (a) To minimize as far as practicable the drawdown of the water table and the reduction of artesian pressure and to control and prevent subsidence, the board may provide for the spacing of wells in the district and may regulate groundwater withdrawal from wells, taking into consideration the economic impact on well owners, the resulting effect on subsidence, and other relevant factors.

(b) Before issuing an order or rule under this section, the board shall set a hearing on the proposed order or rule.

(c) The district may adopt different rules for:

(1) each aquifer, subdivision of an aquifer, or geologic stratum located wholly or partly within the boundaries of the district; or

(2) each geographic area overlying an aquifer or subdivision of an aquifer located wholly or partly within the boundaries of the district.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 13, eff. May 27, 2005.

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

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 14, eff. May 27, 2005.

Sec. 8801.121. REQUIRED WRITTEN POLICIES. The board shall adopt the following written policies:

(1) a code of ethics for district directors, officers, and employees, and persons who are engaged in handling investments for the district;

(2) a policy relating to travel expenditures;

(3) a policy relating to district investments;

(4) policies and procedures for selection, monitoring, or review and evaluation of professional services; and

(5) policies that ensure a better use of management information, including the use of:

(A) budgets to plan and control cost; and

(B) uniform reporting requirements based on "Audits of State and Local Governmental Units," published by the American Institute of Certified Public Accountants, and "Governmental Accounting and Financial Reporting Standards," published by the Governmental Accounting Standards Board.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 14, eff. May 27, 2005.

Sec. 8801.122. RECORDS. The board shall maintain a complete account of all meetings and proceedings and shall preserve its minutes, contracts, records, notices, accounts, receipts, and other records in a safe place.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 14, eff. May 27, 2005.

Sec. 8801.123. OPEN OR UNCOVERED WELLS. (a) The district may require the owner or lessee of land on which an open or uncovered well is located to keep the well closed or capped with a covering capable of sustaining weight of at least 400 pounds when the well is not in actual use.

(b) If the owner or lessee fails or refuses to close or cap the well, any person, firm, or corporation employed by the district may enter onto the land and close or cap the well safely and securely.

Added by Acts 2005, 79th Leg., Ch. 238, Sec. 14, eff. May 27, 2005.

SUBCHAPTER D. REGULATORY PROVISIONS

Sec. 8801.151. GROUNDWATER WITHDRAWALS SUBJECT TO BOARD RULE. Groundwater withdrawals governed by this chapter, including withdrawals of injected water, are subject to reasonable board rules and orders, taking into account all factors, including availability of surface water or alternative water supplies, economic impact on persons and the community, degree and effect of

subsidence on the surface of land, and differing topographical and geophysical characteristics of land areas in the district.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 15, eff. May 27, 2005.

Sec. 8801.152. CERTAIN WELLS EXEMPT. The regulatory provisions of this chapter do not apply to:

- (1) a well regulated under Chapter 27, Water Code;
- (2) a well with a casing diameter of less than five inches that serves only a single-family dwelling; and
- (3) any other well as provided by board rule.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 15, eff. May 27, 2005.

Sec. 8801.154. WELL REGISTRATION. The board by rule may require the registration of any well in the district.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.155. PERMIT REQUIRED. (a) The owner or operator of a well located in the district must obtain a permit from the board before:

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

(b) A well must have a valid permit if it is operational.

(c) An owner or operator commits a violation if the owner or operator does not obtain a permit as required by Subsection (a). A violation occurs on the first day the drilling, alteration, or operation begins. Each day that a violation continues is a separate violation.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 15, eff. May 27, 2005.

Sec. 8801.156. APPLICATION FOR PERMIT. (a) A person must submit an application to the board to obtain a permit under this chapter.

(b) The application must state:

(1) the name and address of the person requesting the permit;

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

(3) the amount of water being withdrawn or proposed to be withdrawn; and

(4) any other information necessary for the board to control and prevent subsidence in the district.

(c) The board shall set a reasonable fee for processing an application. The application must be accompanied by the fee.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.157. NOTICE AND HEARING ON PERMIT. (a) On receiving an application for a permit, the board shall issue notice and set a time for a hearing on the application.

(b) The board must give written notice of the date, time, and location of the hearing to the applicant by regular mail or by certified mail, return receipt requested.

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

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 16, eff. May 27, 2005.

Sec. 8801.158. ISSUANCE OF PERMIT. (a) Within a reasonable period after a permit hearing under Section 8801.157, but not later than the 60th day after the date of the hearing, the board shall:

(1) decide whether to issue the permit; and

(2) set the terms of the permit if it decides to issue the permit.

(b) In deciding whether to issue a permit and in setting the terms of the permit, the board shall consider:

- (1) the purpose of this chapter;
- (2) the district plan;
- (3) the quality, quantity, and availability of surface water or alternative water supplies at prices that are competitive with prices charged by suppliers of surface water in the district;
- (4) the economic impact on the applicant of a decision to issue or deny the permit, or of the permit terms, in relation to the effect on subsidence that would result;
- (5) the applicant's use of water conservation measures;
- (6) the applicant's compliance with the requirements of this chapter or any rule, permit, or order of the district; and
- (7) all other relevant factors.

(c) The board shall issue a permit to an applicant if, on presentation of adequate proof, the board finds that:

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

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

(d) The permit must state the terms prescribed by the board. The permit must include:

- (1) the name and address of the person to whom the permit is issued;

- (2) the location of the well;

- (3) the date the permit expires;

- (4) conditions and restrictions placed on groundwater withdrawal; and

- (5) other terms necessary to control and prevent subsidence.

(e) The board may condition issuance of a permit under this section on the resolution of a prior or continuing violation of this chapter or any rule, permit, or order of the district. The board

may require an applicant to pay a civil penalty or settlement amount, or take other necessary action, to resolve a prior or continuing violation.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 17, eff. May 27, 2005.

Sec. 8801.159. TERM OF PERMIT. (a) A permit issued under this chapter may be for a term not to exceed five years as set by the board.

(b) A permit does not become a vested right of the permit holder. The board may revoke or suspend a permit or amend its terms after notice and hearing when reasonably necessary to accomplish the purpose of this chapter.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.160. RENEWAL OF PERMIT. The board may renew a permit for a well in the manner provided for obtaining the original permit.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.161. PERMIT FEES. (a) When the board issues or renews a permit, the board shall collect a permit fee from the applicant. The fee shall be determined by a schedule based on the term of the permit and the maximum amount of groundwater that the board authorizes to be withdrawn from the well.

(a-1) In addition to a regular permit fee under Subsection (a), the board may establish a disincentive permit fee to serve as a regulatory tool by creating a disincentive to continued over-reliance on groundwater.

(b) The board shall determine the amount of the permit fees under Subsections (a) and (a-1) after a hearing.

(b-1) The fee under Subsection (a) may not exceed 110 percent of the highest rate that the City of Houston charges for surface water supplied to its customers in the district.

(c) The amount of a permit fee applicable to a well used for irrigating agricultural crops may not exceed 70 percent of the

lowest amount determined under Subsection (b).

(d) The district may establish a fee for administrative acts of the district, including receiving applications for permits or permit amendments.

(e) The board shall use permit fees collected under this section to pay the cost of issuing permits and performing other regulatory functions, including making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 18, eff. May 27, 2005.

Sec. 8801.162. ANNUAL REPORT. Before January 31 each year, a well owner who holds a permit under this chapter shall submit to the board a report stating:

- (1) the well owner's name;
 - (2) the total amount of groundwater withdrawn from the well during the preceding 12-month period;
 - (3) the total amount of groundwater withdrawn from the well during each month of the preceding 12-month period;
 - (4) the purpose for which the groundwater was used;
- and
- (5) any other information the board considers necessary.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.163. CONVERSION TO ALTERNATIVE WATER SUPPLY.

(a) In this section, "alternative water supply" means a water supply that a person needs to acquire from sources other than the person's own groundwater supply to comply with a board order issued under this section.

(b) The board may issue an order requiring a person to completely or partially discontinue the use of groundwater only if the person is able to:

- (1) acquire an alternative water supply needed to

replace the water supply covered by the order; or

(2) participate in a groundwater reduction plan or other agreement approved by the board that complies with the district's regulatory requirements.

(c) A notice of public hearing must inform a person when the board will consider an order to convert to an alternative water supply.

(d) Repealed by Acts 2005, 79th Leg., Ch. 238, Sec. 51, eff. May 27, 2005.

(e) This section does not limit the board's authority to issue an order or adopt a rule requiring a person to reduce groundwater use by eliminating waste or implementing water conservation.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 19, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 238, Sec. 20, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 238, Sec. 51, eff. May 27, 2005.

SUBCHAPTER E. APPEAL AND ENFORCEMENT PROVISIONS

Sec. 8801.201. APPEAL OF SURFACE WATER RATES. (a) A person who is required to convert to surface water under this chapter and who purchases that water supply wholesale from a political subdivision as defined by Section 12.013(b), Water Code, may appeal to the commission the rates the political subdivision charges to the person. Chapter 12, Water Code, and rules adopted under that chapter apply to an appeal under this section.

(b) The commission shall hear the appeal not later than the 180th day after the date the appeal is filed.

(c) The commission shall issue a final decision on the appeal not later than the 60th day after the date the hearing ends.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Sec. 8801.202. APPEAL OF DISTRICT ACTIONS. (a) A person who is adversely affected by a rule, order, or other official action of the district under this chapter, including a person residing in or owning real property in the district whose residence or real

property is subsiding, may appeal the action in a district court in any county in the district only after any administrative appeal to the district is finally resolved. An appeal under this section must be filed not later than the 45th day after the date any administrative appeal is finally resolved.

(b) On a written request from a person residing in or owning real property in the district, the board shall make written findings and conclusions regarding a rule, order, or other official action of the district. The board shall provide certified copies of those findings and conclusions to the person not later than the 35th day after the date the board receives the request.

(c) An appeal under this section is governed by the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code. The burden of proof is on the petitioner, and the challenged rule, order, or other official action of the district is considered prima facie valid.

(d) The district court shall set for trial as expeditiously as possible an appeal brought under this section and may not postpone or continue the suit unless the reasons for postponement or continuance are imperative.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 21, eff. May 27, 2005.

Sec. 8801.204. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) If it appears that a person has violated or is violating or threatening to violate this chapter or a rule, permit, or other order of the district issued or adopted under this chapter, the district may institute an action in a district court in the district for:

(1) injunctive relief to restrain the person from continuing the violation or threat of violation;

(2) the assessment and recovery of a civil penalty of not less than \$50 and not more than \$5,000 for each violation and for each day of a continuing violation; or

(3) both injunctive relief and civil penalties.

(b) On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter or a

rule, permit, or other order of the district issued or adopted under this chapter, the district court shall grant injunctive relief as the facts warrant.

(c) At the request of the board, or the general manager if authorized by the board, the attorney general shall institute and conduct an action in the name of the district for injunctive relief or to recover a civil penalty, or both.

(d) The district is not required to post a bond or other security with the court.

(e) In a suit to recover a civil penalty or a suit for injunctive relief and a civil penalty, if the court finds that a person has violated or is violating a provision of this chapter or a rule, permit, or order of the district, the court shall assess a civil penalty in the amount provided by this section.

Acts 2003, 78th Leg., ch. 1277, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 238, Sec. 22, eff. May 27, 2005.