

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

MAY 30, 2009

Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 726 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



SEN. KEVIN ELTIFE



REP. BRYAN HUGHES



SEN. BOB DEUELL



REP. VALINDA BOLTON

SEN. JUAN "CHUY" HINOJOSA

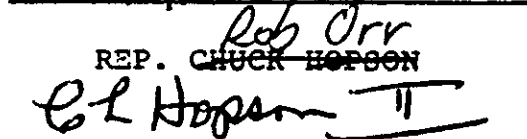


SEN. KEL SELIGER



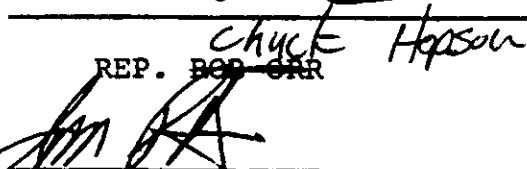
REP. CHUCK HOPSON

REP. BOB ORR



REP. BOB ORR

REP. CHUCK HOPSON



On the part of the Senate

SEN. CARLOS URESTI



On the part of the House

REP. JIM PITTS

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 726

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Harrison County and Prairielands
3 Groundwater Conservation Districts, providing authority to
4 impose a tax and issue bonds and granting a limited power of
5 eminent domain.

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

7 SECTION 1. Subtitle H, Title 6, Special District Local
8 Laws Code, is amended by adding Chapters 8850 and 8855 to read
9 as follows:

10 CHAPTER 8850. HARRISON COUNTY GROUNDWATER

11 CONSERVATION DISTRICT

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 8850.001. DEFINITIONS. In this chapter:

14 (1) "Board" means the board of directors of the
15 district.

16 (2) "Director" means a member of the board.

17 (3) "District" means the Harrison County Groundwater
18 Conservation District.

19 Sec. 8850.002. NATURE OF DISTRICT. The district is a
20 groundwater conservation district in Harrison County created
21 under and essential to accomplish the purposes of Section 59,
22 Article XVI, Texas Constitution.

23 Sec. 8850.003. CONFIRMATION ELECTION REQUIRED. If the
24 creation of the district is not confirmed at a confirmation

1 election held under Section 8850.023 before December 31, 2010:

2 (1) the district is dissolved December 31, 2010,

3 except that:

4 (A) any debts incurred shall be paid;

5 (B) any assets that remain after the payment of
6 debts shall be transferred to Harrison County; and

7 (C) the organization of the district shall be
8 maintained until all debts are paid and remaining assets are
9 transferred; and

10 (2) this chapter expires September 1, 2014.

11 Sec. 8850.004. INITIAL DISTRICT TERRITORY. The initial
12 boundaries of the district are coextensive with the boundaries
13 of Harrison County, Texas.

14 Sec. 8850.005. APPLICABILITY OF OTHER GROUNDWATER
15 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
16 chapter, Chapter 36, Water Code, applies to the district.

17 [Sections 8850.006-8850.020 reserved for expansion]

18 SUBCHAPTER A-1. TEMPORARY PROVISIONS

19 Sec. 8850.021. APPOINTMENT OF TEMPORARY DIRECTORS.

20 (a) Not later than the 45th day after the effective date of the
21 Act enacting this chapter, five temporary directors shall be
22 appointed as follows:

23 (1) the Harrison County Commissioners Court shall
24 appoint four temporary directors, with one of the temporary
25 directors appointed from each of the four commissioners
26 precincts in the county to represent the precincts in which the
27 temporary directors reside; and

1 (2) the county judge of Harrison County shall appoint
2 one temporary director who resides in the district to represent
3 the district at large.

4 (b) Of the temporary directors, at least one director must
5 represent rural water suppliers in the district, one must
6 represent agricultural interests in the district, and one must
7 represent industrial interests in the district.

8 (c) If there is a vacancy on the temporary board of
9 directors of the district, the Harrison County Commissioners
10 Court shall appoint a person to fill the vacancy in a manner
11 that meets the representational requirements of this section.

12 (d) Temporary directors serve until the earlier of:

13 (1) the date initial directors are elected under
14 Section 8850.023; or

15 (2) the fourth anniversary of the effective date of
16 the Act creating this chapter.

17 (e) If initial directors have not been elected under
18 Section 8850.023 and the terms of the temporary directors have
19 expired, successor temporary directors shall be appointed in the
20 manner provided by Subsections (a) and (b) to serve terms that
21 expire on the date this subchapter expires under Section
22 8850.026.

23 Sec. 8850.022. ORGANIZATIONAL MEETING OF TEMPORARY
24 DIRECTORS. As soon as practicable after all the temporary
25 directors have qualified under Section 36.055, Water Code, a
26 majority of the temporary directors shall convene the
27 organizational meeting of the district at a location within the

1 district agreeable to a majority of the directors. If an
2 agreement on location cannot be reached, the organizational
3 meeting shall be at the Harrison County Courthouse.

4 Sec. 8850.023. CONFIRMATION AND INITIAL DIRECTORS'
5 ELECTION. (a) The temporary directors shall hold an election
6 to confirm the creation of the district and to elect the initial
7 directors of the district.

8 (b) The temporary directors shall have placed on the
9 ballot the names of all candidates for an initial director's
10 position who have filed an application for a place on the ballot
11 as provided by Section 52.003, Election Code.

12 (c) The ballot must be printed to provide for voting for
13 or against the proposition: "The creation of the Harrison
14 County Groundwater Conservation District."

15 (d) If the district levies a maintenance tax for payment
16 of expenses, the ballot must be printed to provide for voting
17 for or against the proposition: "The levy of a maintenance tax
18 at a rate not to exceed 1.5 cents for each \$100 of assessed
19 valuation."

20 (e) Section 41.001(a), Election Code, does not apply to an
21 election held under this section.

22 (f) Except as provided by this section, an election under
23 this section must be conducted as provided by Sections
24 36.017(b)-(i), Water Code, and the Election Code. The provision
25 of Section 36.017(d), Water Code, relating to the election of
26 permanent directors does not apply to an election under this
27 section.

1 Sec. 8850.024. INITIAL DIRECTORS. (a) If creation of the
2 district is confirmed at an election held under Section
3 8850.023, the directors elected shall take office as initial
4 directors of the district and serve on the board of directors
5 until permanent directors are elected under Section 8850.025 or
6 8850.053.

7 (b) The four initial directors representing the
8 commissioners precincts shall draw lots to determine which two
9 shall serve a term expiring June 1 following the first regularly
10 scheduled election of directors under Section 8850.025, and
11 which two shall serve a term expiring June 1 following the
12 second regularly scheduled election of directors. The at-large
13 director shall serve a term expiring June 1 following the second
14 regularly scheduled election of directors.

15 Sec. 8850.025. INITIAL ELECTION OF PERMANENT DIRECTORS.
16 On the uniform election date prescribed by Section 41.001,
17 Election Code, in May of the first even-numbered year after the
18 year in which the district is authorized to be created at a
19 confirmation election, an election shall be held in the district
20 for the election of two directors to replace the initial
21 directors who, under Section 8850.024(b), serve a term expiring
22 June 1 following that election.

23 Sec. 8850.026. EXPIRATION OF SUBCHAPTER. This subchapter
24 expires September 1, 2014.

25 [Sections 8850.027-8850.050 reserved for expansion]

26 SUBCHAPTER B. BOARD OF DIRECTORS

27 Sec. 8850.051. DIRECTORS; TERMS. (a) The district is

1 governed by a board of five directors.

2 (b) Directors serve staggered four-year terms, with two or
3 three directors' terms expiring June 1 of each even-numbered
4 year.

5 (c) A director may serve consecutive terms.

6 Sec. 8850.052. METHOD OF ELECTING DIRECTORS:

7 COMMISSIONERS PRECINCTS. (a) The directors of the district
8 shall be elected according to the commissioners precinct method
9 as provided by this section.

10 (b) One director shall be elected by the voters of the
11 entire district, and one director shall be elected from each
12 county commissioners precinct by the voters of that precinct.

13 (c) Except as provided by Subsection (e), to be eligible
14 to be a candidate for or to serve as director at large, a person
15 must be a registered voter in the district. To be a candidate
16 for or to serve as director from a county commissioners
17 precinct, a person must be a registered voter of that precinct.

18 (d) A person shall indicate on the application for a place
19 on the ballot:

20 (1) the precinct that the person seeks to represent;

21 or

22 (2) that the person seeks to represent the district
23 at large.

24 (e) When the boundaries of the county commissioners
25 precincts are redrawn after each federal decennial census to
26 reflect population changes, a director in office on the
27 effective date of the change, or a director elected or appointed

1 before the effective date of the change whose term of office
2 begins on or after the effective date of the change, shall serve
3 in the precinct to which elected or appointed even though the
4 change in boundaries places the person's residence outside the
5 precinct for which the person was elected or appointed.

6 Sec. 8850.053. ELECTION DATE. The district shall hold an
7 election to elect the appropriate number of directors on the
8 uniform election date prescribed by Section 41.001, Election
9 Code, in May of each even-numbered year.

10 Sec. 8850.054. COMPENSATION. (a) Sections 36.060(a),
11 (b), and (d), Water Code, do not apply to the district.

12 (b) A director is entitled to receive compensation of not
13 more than \$50 a day for each day the director actually spends
14 performing the duties of a director. The compensation may not
15 exceed \$3,000 a year.

16 (c) The board may authorize a director to receive
17 reimbursement for the director's reasonable expenses incurred
18 while engaging in activities on behalf of the board.

19 Sec. 8850.055. BOARD ACTION. A majority vote of a quorum
20 is required for board action. If there is a tie vote, the
21 proposed action fails.

22 [Sections 8850.056-8850.100 reserved for expansion]

23 SUBCHAPTER C. POWERS AND DUTIES

24 Sec. 8850.101. GENERAL POWERS. Except as otherwise
25 provided by this chapter, the district has all of the rights,
26 powers, privileges, functions, and duties provided by the
27 general law of this state applicable to groundwater conservation

1 districts created under Section 59, Article XVI, Texas
2 Constitution.

3 Sec. 8850.102. PROHIBITION ON DISTRICT PURCHASE, SALE,
4 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not
5 purchase, sell, transport, or distribute surface water or
6 groundwater for any purpose.

7 Sec. 8850.103. PROHIBITION ON DISTRICT USE OF EMINENT
8 DOMAIN POWER. The district may not exercise the power of
9 eminent domain.

10 [Sections 8850.104-8850.150 reserved for expansion]

11 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

12 Sec. 8850.151. LIMITATION ON TAXES. The district may not
13 impose ad valorem taxes at a rate that exceeds 1.5 cents on each
14 \$100 valuation of taxable property in the district.

15 Sec. 8850.152. FEES. (a) The board by rule may impose
16 reasonable fees on each well:

17 (1) for which a permit is issued by the district; and

18 (2) that is not exempt from district regulation.

19 (b) A production fee may be based on:

20 (1) the size of column pipe used by the well; or

21 (2) the amount of water actually withdrawn from the
22 well, or the amount authorized or anticipated to be withdrawn.

23 (c) The board shall base the initial production fee on the
24 criteria listed in Subsection (b)(2). The initial production
25 fee:

26 (1) may not exceed:

27 (A) 25 cents per acre-foot for water used for

1 agricultural irrigation; or

2 (B) 4.25 cents per thousand gallons for water
3 used for any other purpose; and

4 (2) may be increased at a cumulative rate not to
5 exceed three percent per year.

6 (d) In addition to the production fee authorized under
7 this section, the district may assess an export fee on
8 groundwater from a well that is produced for transport outside
9 the district.

10 (e) Fees authorized by this section may be:

11 (1) assessed annually;

12 (2) used to pay the cost of district operations; and

13 (3) used for any other purpose allowed under Chapter
14 36, Water Code.

15 Sec. 8850.153. LIMITATION ON INDEBTEDNESS. The district
16 may issue bonds and notes under Subchapter F, Chapter 36, Water
17 Code, except that the total indebtedness created by that
18 issuance may not exceed \$500,000 at any time.

19 CHAPTER 8855. PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Sec. 8855.001. DEFINITIONS. In this chapter:

22 (1) "Board" means the board of directors of the
23 district.

24 (2) "Director" means a member of the board.

25 (3) "District" means the Prairielands Groundwater
26 Conservation District.

27 Sec. 8855.002. NATURE OF DISTRICT; FINDINGS. (a) The

1 district is a groundwater conservation district initially
2 composed of Ellis, Hill, Johnson, and Somervell Counties created
3 under and essential to accomplish the purposes of Section 59,
4 Article XVI, Texas Constitution.

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

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

11 (d) Any fees imposed by the district under this chapter
12 are necessary to pay for the costs of accomplishing the purposes
13 of the district, including the conservation and management of
14 groundwater resources, as provided by this chapter and Section
15 59, Article XVI, Texas Constitution.

16 Sec. 8855.003. DISTRICT TERRITORY. The initial boundaries
17 of the district are coextensive with the boundaries of Ellis,
18 Hill, Johnson, and Somervell Counties.

19 Sec. 8855.004. APPLICABILITY OF OTHER GROUNDWATER
20 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
21 chapter, Chapter 36, Water Code, applies to the district.

22 Sec. 8855.005. CONSTRUCTION OF CHAPTER. This chapter
23 shall be liberally construed to achieve the purposes expressed
24 by this chapter and Chapter 36, Water Code. A power granted by
25 this chapter or Chapter 36, Water Code, shall be broadly
26 interpreted to achieve that intent and those purposes.

27 [Sections 8855.006-8855.020 reserved for expansion]

1 SUBCHAPTER B. INITIAL ORGANIZATION

2 Sec. 8855.021. APPOINTMENT OF INITIAL DIRECTORS. (a) The
3 district is governed by a board of eight initial directors
4 appointed as provided by Section 8855.051(a).

5 (b) Initial directors shall be appointed not later than
6 the 90th day after the effective date of the Act enacting this
7 chapter. If after the 90th day fewer than eight initial
8 directors have been appointed, each unfilled initial director
9 position shall be considered a vacancy and filled by the
10 remaining initial directors.

11 (c) Except as provided under Subsection (b) for failure to
12 appoint an initial director, if a vacancy occurs on the board in
13 a position for which an initial director has previously been
14 appointed, the appointing county commissioners court for the
15 vacant position shall appoint a person to fill the vacancy in a
16 manner that meets the representational requirements of Section
17 8855.051.

18 (d) To be eligible to serve as an initial director, a
19 person must be a registered voter in the appointing county.

20 (e) Each initial director must qualify to serve as a
21 director under Section 36.055, Water Code.

22 Sec. 8855.022. ORGANIZATIONAL MEETING OF INITIAL
23 DIRECTORS. As soon as practicable after all the initial
24 directors have qualified under Section 36.055, Water Code, a
25 majority of the initial directors shall convene the
26 organizational meeting of the district at a location in the
27 district agreeable to a majority of the directors. If an

1 agreement on location cannot be reached, the organizational
2 meeting shall be held at a suitable location on the Hill College
3 campus in Cleburne, Johnson County, Texas.

4 Sec. 8855.023. INITIAL TERMS. (a) The two initial
5 directors appointed from each county shall draw lots to
6 determine which director serves an initial term expiring August
7 31, 2011, and which director serves an initial term expiring
8 August 31, 2013.

9 (b) Each successor director shall be appointed and shall
10 serve in accordance with Subchapter C.

11 [Sections 8855.024-8855.050 reserved for expansion]

12 SUBCHAPTER C. BOARD OF DIRECTORS

13 Sec. 8855.051. GOVERNING BODY; TERMS. (a) Except as
14 provided by Subchapter D, the district is governed by a board of
15 eight directors appointed as follows:

16 (1) two directors appointed by the Ellis County
17 Commissioners Court;

18 (2) two directors appointed by the Hill County
19 Commissioners Court;

20 (3) two directors appointed by the Johnson County
21 Commissioners Court; and

22 (4) two directors appointed by the Somervell County
23 Commissioners Court.

24 (b) Directors serve staggered four-year terms, with the
25 term of one director from each of the four counties expiring on
26 August 31 of each odd-numbered year.

27 (c) A director may serve multiple consecutive terms.

1 Sec. 8855.052. DIRECTOR ELIGIBILITY; QUALIFICATION.

2 (a) To be eligible to serve as a director, a person must be a
3 registered voter in the appointing county.

4 (b) Each director must qualify to serve under Section
5 36.055, Water Code.

6 Sec. 8855.053. VACANCIES. If a vacancy occurs on the
7 board, the appointing county commissioners court for the vacant
8 position shall appoint a person to fill the vacancy. Section
9 36.051(c), Water Code, does not apply to the district.

10 Sec. 8855.054. COMPENSATION; REIMBURSEMENT.

11 (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a
12 director may not receive compensation for performing the duties
13 of director.

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

17 [Sections 8855.055-8855.070 reserved for expansion]

18 SUBCHAPTER D. DISTRICT EXPANSION

19 Sec. 8855.071. EXPANSION OF DISTRICT BOUNDARIES.

20 (a) After the effective date of the Act enacting this chapter,
21 the district territory described in Section 8855.003 shall be
22 expanded to include all of the territory in Navarro County, and
23 the governing board described by Section 8855.051(a) shall be
24 expanded to 10 members and include two directors appointed by
25 the Navarro County Commissioners Court, if:

26 (1) pursuant to Chapter 35, Water Code, the Texas
27 Commission on Environmental Quality designates all or any

1 portion of the territory in Navarro County as a priority
2 groundwater management area; and

3 (2) following the designation described by
4 Subdivision (1), the commissioners court of Navarro County:

5 (A) adopts a resolution that states, "By this
6 action of the Navarro County Commissioners Court, all of the
7 territory in Navarro County, Texas, shall, as of the date of
8 this resolution, be included in the boundaries of the
9 Prairielands Groundwater Conservation District"; and

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

12 (b) A person appointed under this section must qualify to
13 serve under Section 36.055, Water Code.

14 (c) At the first regular meeting of the board following
15 the qualification of both directors, the two directors appointed
16 under this section shall draw lots to determine which director
17 serves a term expiring August 31 of the first odd-numbered year
18 after the directors' appointment, and which director serves a
19 term expiring August 31 of the next odd-numbered year.

20 (d) A director appointed under this section shall
21 otherwise serve in accordance with Subchapter C.

22 [Sections 8855.072-8855.100 reserved for expansion]

23 SUBCHAPTER E. POWERS AND DUTIES

24 Sec. 8855.101. GROUNDWATER CONSERVATION DISTRICT POWERS
25 AND DUTIES. Except as provided by this chapter, the district
26 has the powers and duties provided by the general law of this
27 state applicable to groundwater conservation districts created

1 under Section 59, Article XVI, Texas Constitution, including
2 Chapter 36, Water Code.

3 Sec. 8855.102. CONTRACTS. The district may enter into a
4 contract with any person, public or private, for any purpose
5 authorized by law.

6 Sec. 8855.103. APPLICABILITY OF DISTRICT REGULATIONS.
7 Groundwater regulation under this chapter applies to all persons
8 except as exempted from permitting under Section 36.117, Water
9 Code, or this chapter.

10 Sec. 8855.104. WELL SPACING RULES; EXEMPTIONS.

11 (a) Except as provided by Subsection (b), the district shall
12 exempt from the well spacing requirements adopted by the
13 district any well that is completed on or before the effective
14 date of those requirements.

15 (b) The district may provide by rule that a well may lose
16 its exemption under this section if the well is modified in a
17 manner that substantially increases the capacity of the well
18 after the effective date of the well spacing requirements
19 adopted by the district.

20 (c) Except as provided by this section and notwithstanding
21 Section 8855.103, the district may require a well or class of
22 wells exempt from permitting under Chapter 36, Water Code, to
23 comply with the well spacing requirements adopted by the
24 district. The district shall apply well spacing requirements
25 uniformly to any well or class of wells based on the size or
26 capacity of the well and without regard to the type of use of
27 the groundwater produced by the well.

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

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

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

24 [Sections 8855.107-8855.150 reserved for expansion]

25 SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

26 Sec. 8855.151. TAXES PROHIBITED. The district may not
27 impose a tax. Sections 36.020(a) and 36.201-36.204, Water Code,

1 do not apply to the district.

2 Sec. 8855.152. DISTRICT REVENUES. (a) The district by
3 rule, resolution, or order may establish, amend, pledge,
4 encumber, spend the proceeds from, and assess to any person
5 production fees, based on the amount of groundwater authorized
6 by permit to be withdrawn from a well or on the amount of water
7 actually withdrawn, to enable the district to fulfill its
8 purposes and regulatory functions as provided by this chapter.
9 The district may use revenue generated by fees it assesses for
10 any lawful purpose.

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

13 (1) \$1 per acre-foot annually for groundwater used
14 for agricultural purposes; or

15 (2) 30 cents per thousand gallons annually for
16 groundwater used for nonagricultural purposes.

17 (c) Notwithstanding any provision of general law or this
18 chapter to the contrary, if any, the district may assess a
19 production fee under this section for groundwater produced from
20 a well or class of wells exempt from permitting under Section
21 36.117, Water Code, except for a well exempt from permitting
22 under Section 36.117(b)(1). A production fee assessed by the
23 district under this subsection must be based on the amount of
24 groundwater actually withdrawn from the well and may not exceed
25 the amount established by the district for permitted uses under
26 Subsection (b)(2) of this section.

27 (d) Notwithstanding Section 36.1071(f), Water Code, the

1 district by rule, resolution, or order before the adoption of
2 its management plan may:

3 (1) establish, assess, and enforce the collection of
4 production fees under this section; and

5 (2) establish and enforce metering and reporting
6 requirements, except for a well exempt from permitting under
7 Section 36.117(b)(1), Water Code.

8 (e) The district by rule may establish a temporary or
9 permanent discounted fee rate for persons who prepay production
10 fees to the district under this section on or before the dates
11 established by district rule.

12 SECTION 2. (a) The legal notice of the intention to
13 introduce this Act, setting forth the general substance of this
14 Act, has been published as provided by law, and the notice and a
15 copy of this Act have been furnished to all persons, agencies,
16 officials, or entities to which they are required to be
17 furnished under Section 59, Article XVI, Texas Constitution, and
18 Chapter 313, Government Code.

19 (b) The governor has submitted the notice and Act to the
20 Texas Commission on Environmental Quality.

21 (c) The Texas Commission on Environmental Quality has
22 filed its recommendations relating to this Act with the
23 governor, lieutenant governor, and speaker of the house of
24 representatives within the required time.

25 (d) All requirements of the constitution and laws of this
26 state and the rules and procedures of the legislature with
27 respect to the notice, introduction, and passage of this Act are

1 fulfilled and accomplished.

2 SECTION 3. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary
6 for immediate effect, this Act takes effect September 1, 2009.

Senate Bill 726
House Amendments
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

ARTICLE __. BARTON SPRINGS-EDWARDS
AQUIFER CONSERVATION DISTRICT: DISTRICT
TERRITORY; RATIFICATION ELECTION

Same as Senate version.

No equivalent provision.

SECTION __.01. Section 8802.003, Special District
Local Laws Code, is amended to read as follows:
Sec. 8802.003. DISTRICT TERRITORY. (a) The
district is composed of the territory described by the
Texas Water Commission's August 15, 1986, order, as
that territory may have been modified under:
(1) Subchapter J, Chapter 36, Water Code; or
(2) other law.
(b) In addition, the district includes the territory
described by Section 2.01 of the Act enacting this
subsection.

Same as Senate version.

No equivalent provision.

SECTION __.02. Subchapter A, Chapter 8802, Special
District Local Laws Code, is amended by adding Section
8802.005 to read as follows:
Sec. 8802.005. RATIFICATION ELECTION. (a)
Before August 31, 2011, the board of directors shall hold
an election to ratify the annexation of the territory
described by Section 2.02 of the Act enacting this
subsection. If a majority of the voters voting at the
election do not vote in favor of ratifying the annexation,
the board may hold another election for the same
purpose.
(b) Except as provided by this section, a ratification

Same as Senate version.

Senate Bill 726
House Amendments
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

election must be conducted as provided by Section 36.328, Water Code, and the Election Code.
(c) This section expires September 1, 2011.

No equivalent provision.

SECTION __.03. Section 8802.053, Special District Local Laws Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) As soon as practicable after the publication of each federal decennial census, the board shall revise the single-member districts as the board considers appropriate to reflect population changes.

(c-1) When the board revises the single-member districts [under this subsection], the board shall place two of the districts wholly within the territory described by Section 2.04 of the Act amending Subsection (c) and adding this subsection[:

~~[(1) entirely within the boundaries of the city of Austin, as those boundaries exist at that time; or~~

~~[(2) within the boundaries of the city of Austin, as those boundaries exist at that time, but also including unincorporated areas or other municipalities that are surrounded wholly or partly by the boundaries of the city of Austin if the areas or municipalities are nonecontiguous to the territory of any other single member district].~~

Same as Senate version.

No equivalent provision.

SECTION __.04. Subchapter B, Chapter 8802, Special District Local Laws Code, is amended by adding Section 8802.054 to read as follows:

Same as Senate version.

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Sec. 8802.054. APPLICABILITY OF OTHER LAW.
Section 36.059, Water Code, does not apply to the
district.

No equivalent provision.

SECTION __.05. Sections 8802.051(b) and 8802.053(d), Special District Local Laws Code, are repealed.

Same as Senate version.

No equivalent provision.

SECTION __.06. This article takes effect September 1, 2009.

Same as Senate version.

No equivalent provision.

ARTICLE __. BARTON SPRINGS-EDWARDS
AQUIFER CONSERVATION DISTRICT: FEES;
DIRECTORS AND TERRITORY CONTINGENT ON
ANNEXATION

Same as Senate version.

No equivalent provision.

SECTION __.01. This article takes effect only if the annexation of the territory described by Section 2.02 of this Act is ratified at an election held under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act. If the annexation of the territory described by Section 2.02 of this Act is not ratified, this article has no effect.

Same as Senate version.

No equivalent provision.

SECTION __.02. Section 8802.003, Special District

Same as Senate version.

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Local Laws Code, is amended by adding Subsection (c) to read as follows:

(c) In addition, the district includes the territory described by Section 2.02 of the Act enacting this subsection.

No equivalent provision.

SECTION __.03. Subchapter B, Chapter 8802, Special District Local Laws Code, is amended by adding Sections 8802.0511, 8802.054, and 8802.055 to read as follows:

Sec. 8802.0511. DIRECTORS; TERMS. (a) The district is governed by a board of seven directors who serve staggered four-year terms.

(b) Three directors must be elected by voters residing in the territory described by Section 2.03 of the Act enacting this subsection.

(c) Four directors must be elected by voters of the district who reside outside the territory described by Section 2.03 of the Act enacting this subsection.

Sec. 8802.054. SINGLE-MEMBER DISTRICTS. (a) The district is divided into seven numbered, single-member districts for electing directors.

(b) The board may revise the single-member districts as necessary or appropriate.

(c) When the board revises the single-member districts, the board shall place three of the districts entirely inside and four of the districts entirely outside the territory described by Section 2.03 of the Act enacting this subsection.

Same as Senate version.

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(d) When the boundaries of the single-member districts are changed, a director in office on the effective date of the change, or elected or appointed before the effective date of the change to a term of office beginning on or after the effective date of the change, is entitled to serve the term or the remainder of the term in the numbered single-member district to which elected or appointed even though the change in boundaries places the person's residence outside the numbered single-member district for which the person was elected or appointed.

(e) At the first regularly scheduled election of directors after the board of the district is expanded from five to seven directors, directors elected to fill any vacant director positions shall draw lots to determine which of those directors shall serve a two-year term and which shall serve a four-year term. Lots must be determined so that not more than four directors' terms expire in any even-numbered year.

Sec. 8802.055. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than three months after the date of the election under Section 8802.005, the board shall appoint two temporary directors to the board to represent the territory the annexation of which was ratified at the election.

(b) The temporary directors shall serve at large until the next general election of directors of the district under Section 8802.052.

No equivalent provision.

SECTION __.04. Section 8802.105(a), Special District

Same as Senate version.

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Local Laws Code, is amended to read as follows:

(a) Each year the board may assess against the City of Austin a water use fee in an amount not to exceed the lesser of \$900,000 or 60 percent of the total funding the district expects to receive for the next fiscal year from water use fees assessed against Austin and other nonexempt users in that year as computed [~~subject to the computation~~] under Subsection (b).

No equivalent provision.

SECTION __.05. Sections 8802.051 and 8802.053, Special District Local Laws Code, are repealed.

Same as Senate version.

No equivalent provision.

SECTION __.06. (a) Except as provided by Section 1A.01 of this Act, this article takes effect on the date the annexation of the territory described by Section 2.02 of this Act is ratified at an election held under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act.

Same as Senate version.

(b) If the annexation of territory is ratified at an election described by Subsection (a) of this section, the board of directors of the Barton Springs-Edwards Aquifer Conservation District shall notify the Texas Commission on Environmental Quality of the changes in territory and board members.

No equivalent provision.

ARTICLE __. BARTON SPRINGS-EDWARDS
AQUIFER CONSERVATION DISTRICT:

Same as Senate version.

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DESCRIPTION OF TERRITORIES

No equivalent provision.

SECTION __.01. The territory annexed to the Barton Springs-Edwards Aquifer Conservation District under Section 8802.003(b), Special District Local Laws Code, as added by Section 1.01 of this Act, is described as follows:

Same as Senate version.

(1) 1.8750 acres described as Lot 1, Block 1 of Vanisha Development Subdivision, as recorded in Book No. 14, Pages 98-99, Hays County, Texas;

(2) 21.003 acres of land situated in the Thomas G. Allen Survey, Hays County, Texas, being a portion of that certain tract of land in a deed to South Corridor Park, Ltd., recorded in Document No. 00025896, Hays County, Texas; and

(3) 24.628 acres of land situated in the Elisha Pruett Survey, Abstract 23, described in a deed to Hays Consolidated Independent School District, recorded in Document No. 05001881, Hays County, Texas.

No equivalent provision.

SECTION __.02. The territory annexed to the Barton Springs-Edwards Aquifer Conservation District if ratified at an election under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act, is described as follows:

Same as Senate version.

(1) Beginning at the current eastern district boundary and the Colorado River, running east along the Colorado River to a point where the district boundary intersects

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Interstate Highway 35, then south along Interstate Highway 35 to William Cannon Drive, then west along Old Lockhart Road, then north on Congress Avenue, then west on Ben White Boulevard, then north on South First Street, then east on Elizabeth Street, then north on Congress Avenue following along the district boundary to the place of beginning; and

(2) Beginning at the current western district boundary and the Colorado River, then following westerly along the southern border of the Colorado River to a point due north of the intersection of Weston Lane and Brightman Lane, then south on that line to said intersection, then south on Weston Lane to its intersection with FM 2244, then west on FM 2244 to its intersection with State Highway 71, then west on State Highway 71 until the intersection with the extraterritorial jurisdiction limits of the City of Bee Cave as of the date of the ratification election under Section 8802.005, Special District Local Laws Code, then generally south and west following the extraterritorial jurisdiction limits of the City of Bee Cave, to exclude the City of Bee Cave and its extraterritorial jurisdiction as of the date of the ratification election under Section 8802.005, Special District Local Laws Code, until it intersects with State Highway 71, then west on Highway 71 until it intersects with Bee Creek Road, then north on Bee Creek Road until it intersects with Siesta Shores Drive, then due east from that intersection to the southern boundary of Lake Travis, then following the southern boundary of Lake Travis until it intersects the Blanco County line, then

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following the Blanco County line until it intersects the Hays County line, then east along the Hays County line until its intersection of the district boundary existing before the effective date of this Act, then north following the western district boundary to the Colorado River, the point of beginning.

(3) Any boundary reference to a highway, street, road, avenue, boulevard, or lane shall mean the center line of the boundary.

No equivalent provision.

SECTION __.03. If the annexation of territory is ratified by an election held under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act, the territory for certain voting districts under Sections 8802.0511(a) and (b) and Section 8802.054(c), Special District Local Laws Code, as added by Article 1A of this Act, is described as follows:

(1) Beginning at a point where Interstate Highway 35 crosses the Colorado River in Travis County, then south along Interstate Highway 35 to Slaughter Lane, then west along Slaughter Lane to FM 1826, then north along FM 1826 to U.S. Highway 290, then east along U.S. Highway 290 to Old Bee Cave Road, then northwest along Old Bee Cave Road to Travis Cook Road, then north along Travis Cook Road to Barton Creek Boulevard, then north along Barton Creek Boulevard to FM 2244, then west along FM 2244 to Weston Lane, then north along Weston Lane to Brightman Lane, then due north from that intersection to the Colorado River,

Same as Senate version.

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then east along the Colorado River to the place of the beginning.

(2) Any boundary reference to a highway, street, road, avenue, boulevard, or lane shall mean the center line of the boundary.

No equivalent provision.

SECTION __.04. The territory for voting districts under Section 8802.053(c-1), Special District Local Laws Code, as added by Section 1.03 of this Act, is described as follows:

Same as Senate version.

(1) Beginning at the eastern district boundary and the Colorado River, then south along the eastern district boundary to the intersection of Interstate Highway 35 and Slaughter Lane; then west along Slaughter Lane to the district boundary, then north along the district boundary to the Colorado River, then east along the Colorado River following the district boundary to the point of the beginning.

(2) Any boundary reference to a highway, street, road, avenue, boulevard, or lane shall mean the center line of the boundary.

No equivalent provision.

ARTICLE __. BARTON SPRINGS-EDWARDS
AQUIFER CONSERVATION DISTRICT:
JURISDICTIONAL CONFLICT

Same as Senate version.

No equivalent provision.

SECTION __.01. The Edwards Aquifer Authority

Same as Senate version.

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maintains sole authority to regulate and manage the San Antonio segment of the Edwards Aquifer.

No equivalent provision.

ARTICLE __. BARTON SPRINGS-EDWARDS
AQUIFER CONSERVATION DISTRICT: INTENT,
NOTICE, AND EFFECTIVE DATE

Same as Senate version.

No equivalent provision.

SECTION __.02. Except as provided by Section 1.06, 1A.01, or 1A.06 of this Act, this article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009, except as provided by Section 1A.01 or 1A.06 of this Act.

Same as Senate version.

No equivalent provision.

ARTICLE __. HARRISON COUNTY
GROUNDWATER CONSERVATION DISTRICT

Same as Senate version.

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8850 to read as follows:

CHAPTER 8850. HARRISON COUNTY
GROUNDWATER
CONSERVATION DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS

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Sec. 8850.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "Director" means a member of the board.
- (3) "District" means the Harrison County Groundwater Conservation District.

Sec. 8850.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Harrison County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8850.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8850.023 before December 31, 2010:

(1) the district is dissolved December 31, 2010, except that:

- (A) any debts incurred shall be paid;
- (B) any assets that remain after the payment of debts shall be transferred to Harrison County; and
- (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2014.

Sec. 8850.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Harrison County, Texas.

Sec. 8850.005. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a)

On September 1, 2013, the district boundaries must include at least one county adjacent to Harrison County.

(b) As soon as practicable after September 1, 2013, the

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Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the commission determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2015.

Sec. 8850.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8850.007-8850.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8850.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of the Act enacting this chapter, five temporary directors shall be appointed as follows:

(1) the Harrison County Commissioners Court shall appoint four temporary directors, with one of the temporary directors appointed from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and

(2) the county judge of Harrison County shall appoint one temporary director who resides in the district to represent the district at large.

(b) Of the temporary directors, at least one director must represent rural water suppliers in the district, one must

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represent agricultural interests in the district, and one must represent industrial interests in the district.

(c) If there is a vacancy on the temporary board of directors of the district, the Harrison County Commissioners Court shall appoint a person to fill the vacancy in a manner that meets the representational requirements of this section.

(d) Temporary directors serve until the earlier of:

(1) the date initial directors are elected under Section 8850.023; or

(2) the fourth anniversary of the effective date of the Act creating this chapter.

(e) If initial directors have not been elected under Section 8850.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed in the manner provided by Subsections (a) and (b) to serve terms that expire on the date this subchapter expires under Section 8850.026.

Sec. 8850.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Harrison County Courthouse.

Sec. 8850.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the

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district and to elect the initial directors of the district.

(b) The temporary directors shall have placed on the ballot the names of all candidates for an initial director's position who have filed an application for a place on the ballot as provided by Section 52.003, Election Code.

(c) The ballot must be printed to provide for voting for or against the proposition: "The creation of the Harrison County Groundwater Conservation District."

(d) If the district levies a maintenance tax for payment of expenses, the ballot must be printed to provide for voting for or against the proposition: "The levy of a maintenance tax at a rate not to exceed 1.5 cents for each \$100 of assessed valuation."

(e) Section 41.001(a), Election Code, does not apply to an election held under this section.

(f) Except as provided by this section, an election under this section must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code. The provision of Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to an election under this section.

Sec. 8850.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8850.023, the directors elected shall take office as initial directors of the district and serve on the board of directors until permanent directors are elected under Section 8850.025 or 8850.053.

(b) The four initial directors representing the commissioners precincts shall draw lots to determine which two shall serve a term expiring June 1 following

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the first regularly scheduled election of directors under Section 8850.025, and which two shall serve a term expiring June 1 following the second regularly scheduled election of directors. The at-large director shall serve a term expiring June 1 following the second regularly scheduled election of directors.

Sec. 8850.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors to replace the initial directors who, under Section 8850.024(b), serve a term expiring June 1 following that election.

Sec. 8850.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8850.027-8850.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8850.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms, with two or three directors' terms expiring June 1 of each even-numbered year.

(c) A director may serve consecutive terms.

Sec. 8850.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

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(b) One director shall be elected by the voters of the entire district, and one director shall be elected from each county commissioners precinct by the voters of that precinct.

(c) Except as provided by Subsection (e), to be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

(1) the precinct that the person seeks to represent; or

(2) that the person seeks to represent the district at large.

(e) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

Sec. 8850.053. ELECTION DATE. The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in May of each even-numbered year.

Sec. 8850.054. COMPENSATION. (a) Sections

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36.060(a), (b), and (d), Water Code, do not apply to the district.

(b) A director is entitled to receive compensation of not more than \$50 a day for each day the director actually spends performing the duties of a director. The compensation may not exceed \$3,000 a year.

(c) The board may authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the board.

Sec. 8850.055. BOARD ACTION. A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

[Sections 8850.056-8850.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8850.101. GENERAL POWERS. Except as otherwise provided by this chapter, the district has all of the rights, powers, privileges, functions, and duties provided by the general law of this state applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8850.102. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. The district may not purchase, sell, transport, or distribute surface water or groundwater for any purpose.

Sec. 8850.103. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8850.104-8850.150 reserved for expansion]

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SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8850.151. LIMITATION ON TAXES. The district may not impose ad valorem taxes at a rate that exceeds 1.5 cents on each \$100 valuation of taxable property in the district.

Sec. 8850.152. FEES. (a) The board by rule may impose reasonable fees on each well:

(1) for which a permit is issued by the district; and

(2) that is not exempt from district regulation.

(b) A production fee may be based on:

(1) the size of column pipe used by the well; or

(2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) The board shall base the initial production fee on the criteria listed in Subsection (b)(2). The initial production fee:

(1) may not exceed:

(A) 25 cents per acre-foot for water used for agricultural irrigation; or

(B) 4.25 cents per thousand gallons for water used for any other purpose; and

(2) may be increased at a cumulative rate not to exceed three percent per year.

(d) In addition to the production fee authorized under this section, the district may assess an export fee on groundwater from a well that is produced for transport outside the district.

(e) Fees authorized by this section may be:

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- (1) assessed annually;
 - (2) used to pay the cost of district operations; and
 - (3) used for any other purpose allowed under Chapter 36, Water Code.
- Sec. 8850.153. LIMITATION ON INDEBTEDNESS.
The district may issue bonds and notes under Subchapter F, Chapter 36, Water Code, except that the total indebtedness created by that issuance may not exceed \$500,000 at any time.

SECTION 2. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION __.01. Same as Senate version.

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No equivalent provision.

SECTION 2. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

Same as House version.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Same as Senate version.

No equivalent provision.

SECTION __. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8855 to read as follows:

Same as House version.

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CHAPTER 8855. PRAIRIELANDS GROUNDWATER
CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8855.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "Director" means a member of the board.
- (3) "District" means the Prairielands Groundwater Conservation District.

Sec. 8855.002. NATURE OF DISTRICT; FINDINGS.

- (a) The district is a groundwater conservation district initially composed of Ellis, Hill, Johnson, and Somervell Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.
- (b) The district is created to serve a public use and benefit.
- (c) All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by this chapter and by Chapter 36, Water Code.
- (d) Any fees imposed by the district under this chapter are necessary to pay for the costs of accomplishing the purposes of the district, including the conservation and management of groundwater resources, as provided by this chapter and Section 59, Article XVI, Texas Constitution.

Sec. 8855.003. DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Ellis, Hill, Johnson, and Somervell Counties.

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Sec. 8855.004. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

Sec. 8855.005. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the purposes expressed by this chapter and Chapter 36, Water Code. A power granted by this chapter or Chapter 36, Water Code, shall be broadly interpreted to achieve that intent and those purposes.

[Sections 8855.006-8855.020 reserved for expansion]

SUBCHAPTER B. INITIAL ORGANIZATION

Sec. 8855.021. APPOINTMENT OF INITIAL DIRECTORS. (a) The district is governed by a board of eight initial directors appointed as provided by Section 8855.051(a).

(b) Initial directors shall be appointed not later than the 90th day after the effective date of the Act enacting this chapter. If after the 90th day fewer than eight initial directors have been appointed, each unfilled initial director position shall be considered a vacancy and filled by the remaining initial directors.

(c) Except as provided under Subsection (b) for failure to appoint an initial director, if a vacancy occurs on the board in a position for which an initial director has previously been appointed, the appointing county commissioners court for the vacant position shall appoint a person to fill the vacancy in a manner that meets the representational requirements of Section 8855.051.

(d) To be eligible to serve as an initial director, a person

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must be a registered voter in the appointing county.

(e) Each initial director must qualify to serve as a director under Section 36.055, Water Code.

Sec. 8855.022. ORGANIZATIONAL MEETING OF INITIAL DIRECTORS. As soon as practicable after all the initial directors have qualified under Section 36.055, Water Code, a majority of the initial directors shall convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be held at a suitable location on the Hill College campus in Cleburne, Johnson County, Texas.

Sec. 8855.023. INITIAL TERMS. (a) The two initial directors appointed from each county shall draw lots to determine which director serves an initial term expiring August 31, 2011, and which director serves an initial term expiring August 31, 2013.

(b) Each successor director shall be appointed and shall serve in accordance with Subchapter C.

[Sections 8855.024-8855.050 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 8855.051. GOVERNING BODY; TERMS. (a) Except as provided by Subchapter D, the district is governed by a board of eight directors appointed as follows:

(1) two directors appointed by the Ellis County Commissioners Court;

(2) two directors appointed by the Hill County Commissioners Court;

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(3) two directors appointed by the Johnson County Commissioners Court; and

(4) two directors appointed by the Somervell County Commissioners Court.

(b) Directors serve staggered four-year terms, with the term of one director from each of the four counties expiring on August 31 of each odd-numbered year.

(c) A director may serve multiple consecutive terms.

Sec. 8855.052. DIRECTOR ELIGIBILITY: QUALIFICATION. (a) To be eligible to serve as a director, a person must be a registered voter in the appointing county.

(b) Each director must qualify to serve under Section 36.055, Water Code.

Sec. 8855.053. VACANCIES. If a vacancy occurs on the board, the appointing county commissioners court for the vacant position shall appoint a person to fill the vacancy. Section 36.051(c), Water Code, does not apply to the district.

Sec. 8855.054. COMPENSATION: REIMBURSEMENT. (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a director may not receive compensation for performing the duties of director.

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

[Sections 8855.055-8855.070 reserved for expansion]

SUBCHAPTER D. DISTRICT EXPANSION

Sec. 8855.071. EXPANSION OF DISTRICT

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

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

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

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

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

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

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

(d) A director appointed under this section shall

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otherwise serve in accordance with Subchapter C.

[Sections 8855.072-8855.100 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES

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

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

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

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

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

(c) Except as provided by this section and

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notwithstanding Section 8855.103, the district may require a well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8855.105. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS.

The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, except for a well exempt from permitting under Section 36.117(b)(1), to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

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

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

[Sections 8855.107-8855.150 reserved for expansion]

SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

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

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

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

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

(2) 30 cents per thousand gallons annually for groundwater used for nonagricultural purposes.

(c) Notwithstanding any provision of general law or this chapter to the contrary, if any, the district may assess a production fee under this section for groundwater produced from a well or class of wells exempt from

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permitting under Section 36.117, Water Code, except for a well exempt from permitting under Section 36.117(b)(1). A production fee assessed by the district under this subsection must be based on the amount of groundwater actually withdrawn from the well and may not exceed the amount established by the district for permitted uses under Subsection (b)(2) of this section.

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

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

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB726 by Eltife (Relating to the creation of the Harrison County and Prairielands Groundwater Conservation Districts; providing authority to impose a tax and issue bonds and granting a limited power of eminent domain.), Conference Committee Report

No fiscal implication to the State is anticipated.

Local Government Impact

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 House/Senate as to its probable fiscal implication on units of local government.

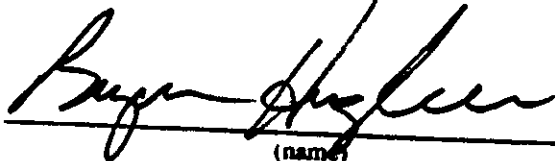
Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JOB, SZ, DB, SD

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on S. B. 726 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.



(name)

MAY 30, 2009
(date)