

CHAPTER 369

H.B. No. 2209

AN ACT

relating to the Harris-Galveston Coastal Subsidence District.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. The Water Code is amended by adding Title 5 to read as follows:

TITLE 5. SPECIAL LAW DISTRICTS

CHAPTER 151. HARRIS-GALVESTON COASTAL SUBSIDENCE DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 151.001. CREATION. (a) *The Harris-Galveston Coastal Subsidence District is an underground water conservation district created under and essential to accomplish the purposes of Article XVI, Section 59, of the Texas Constitution.*

(b) *The district is a governmental agency and body politic and corporate.*

Sec. 151.002. DEFINITIONS. *In this chapter:*

- (1) *"Board" means the board of directors of the district*
- (2) *"Commission" means the Texas Natural Resource Conservation Commission.*
- (3) *"District" means the Harris-Galveston Coastal Subsidence District.*
- (4) *"Drill" means drilling, equipping, or completing wells or substantially altering the size of wells or well pumps.*

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

(6) "Groundwater-withdrawal year" means the period beginning January 1 of one year and ending December 31 of that same year.

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

(8) "Water conservation" means any measure that seeks to make a water supply available for alternative or future uses, including best management practices, reduction in consumption, reduction in loss or waste, improved efficiency or accountability, recycling, reuse, or pollution prevention.

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

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owner" means a person who has an ownership interest in a well, owns land on which a well is located, owns the water withdrawn or to be withdrawn from a well, or operates a well.

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

Sec. 151.003. BOUNDARIES. (a) The district includes all of the area located within the boundaries of Harris County and Galveston County.

(b) Except as provided in this subsection, an adjoining county may be added to the district on application of the commissioners court of the adjoining county and by complying with the procedures provided in Sections 55.730–55.744 of this code, to the extent that those provisions are applicable. Any county added to the district under this subsection is subject to the jurisdiction of the board and this chapter, and two members shall be added to the board. One shall be chosen by the commissioners court of the county added to the district and one shall be chosen by the mayor of the city that has the largest population in the county that is added. The two new members shall draw lots to establish staggered terms of office.

Sec. 151.004. PURPOSE AND INTENT; FINDING OF BENEFIT. (a) The purpose of this chapter is to provide for the regulation of the withdrawal of groundwater within the boundaries of the district for the purpose of ending subsidence, which contributes to or precipitates flooding, inundation, or overflow of the district, including without limitation rising waters resulting from storms or hurricanes.

(b) The legislature intends that the district shall administer and enforce this chapter and shall exercise the district's rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of this chapter.

(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 Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.

Sec. 151.005. POWERS AND DUTIES IN GENERAL. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 52 of this code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution.

(b) Withdrawals of groundwater covered by this chapter are subject to reasonable rules and orders adopted by the board, taking into account all factors including availability of surface water, 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. The board has the powers and duties specifically described in this chapter and all other powers necessary or convenient to carry out its responsibilities and achieve the purpose of this chapter.

(c) Sections 52.1511, 52.156, 52.167, 52.168, 52.170, and 52.173 of this code and Subchapters B, C, H, I, J, and K of Chapter 52 of this code do not apply to the district.

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

(e) This chapter prevails over any other law in conflict or inconsistent with this chapter.

[Sections 151.006–151.030 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 151.031. BOARD OF DIRECTORS. (a) *The district is governed by a board of directors composed of 17 members who serve for two-year, staggered terms.*

(b) *The board consists of:*

(1) *six members from the city in the district having the largest population of any city in the district, to be appointed by the mayor of that city, one of these members to be a representative of industry;*

(2) *one member from the city in the district having the next largest population of any city in the district, to be appointed by the mayor of that city;*

(3) *two members from all incorporated cities in Galveston County, appointed by the mayors of those cities;*

(4) *one member from the city of Baytown, appointed by the mayor of that city;*

(5) *two members appointed by the commissioners court of Harris County, one to be a representative of agriculture and one to be a representative of industry, provided that neither of these members is a resident of the city in the district having the largest population;*

(6) *two members appointed by the commissioners court of Galveston County;*

(7) *one member from Harris County chosen by the mayors of the cities of Deer Park, Galena Park, La Porte, Nassau Bay, and Seabrook and the president of the Clear Lake City Water Authority;*

(8) *one member from Harris County chosen by the mayors of the cities of West University Place, Southside Place, Bellaire, and Jacinto City; and*

(9) *one member from Harris County chosen by the mayors of the cities of Humble, Piney Point Village, Hedwig Village, Bunker Hill Village, Hunters Creek Village, Hilshire Village, and the village of Spring Valley.*

(c) *A member of the board must be a resident of and a qualified voter in the district.*

Sec. 151.032. OFFICERS. (a) *Each year at the first meeting after the new directors take office, the members shall select one of their number to serve as chairman, one to serve as vice-chairman, and one to serve as secretary.*

(b) *The chairman shall preside over meetings of the board, and in the chairman's absence the vice-chairman shall preside.*

Sec. 151.033. VACANCIES. *If a vacancy occurs on the board, a person representing the same area from which the person who vacates the position is appointed shall be chosen by the person or persons designated in Section 151.031(b) to serve the unexpired term.*

Sec. 151.034. MEETINGS. *The board shall meet for a regular meeting once each month at a time set by the board and may hold special meetings at the call of the chairman or on the written request of at least three members of the board.*

Sec. 151.035. GENERAL MANAGER. (a) *The board shall employ a general manager as the chief administrative officer of the district. The board may delegate to the general manager full authority to manage and operate the affairs of the district subject only to orders of the board.*

(b) *The duties of the general manager include:*

(1) *administering the orders of the board;*

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

(3) *overseeing development of district plans and programs; and*

(4) *other duties assigned by the board.*

(c) *The board shall determine the terms of office and employment and the compensation to be paid the general manager, and the general manager may be discharged by a majority vote of the board.*

Sec. 151.036. EMPLOYEES; BOND. (a) The general manager shall employ all persons necessary for the proper handling of the business and operation of the district and may employ attorneys, bookkeepers, engineers, and other expert and specialized personnel considered necessary. The general manager shall determine compensation to be paid by the district.

(b) The general manager may discharge employees of the district.

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

Sec. 151.037. SUITS. (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) 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) All courts shall take judicial notice of the creation of the district and of its boundaries.

Sec. 151.038. ACCESS TO PROPERTY. (a) To carry out technical and other investigations necessary to the implementation of this chapter, the board and its agents and employees are entitled to access to all property within the district.

(b) Before entering property for the purposes of this section, the person seeking access shall give notice to the owner of the property as provided by district rules and shall 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.

[Sections 151.039–151.070 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 151.071. RULES. (a) After notice and hearing, the board shall adopt and enforce rules designed to expeditiously and effectively implement this chapter and accomplish its purposes, including rules governing procedure before the board.

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

Sec. 151.072. HEARINGS. (a) Board hearings shall be conducted as provided by this section. Hearings are governed by the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252–17, Vernon's Texas Civil Statutes). Except as provided by this section, notice of hearings shall be provided according to that law.

(b) At a regular meeting of the board, the board shall set the dates, times, and locations for any hearings to be held under this chapter and shall direct the general manager of the district to give notice.

(c) Written notice of a hearing shall be given to each county and municipal government in the district and to each person that the board believes has an interest in the subject matter to be dealt with at the hearing.

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

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

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

(g) The board may hold hearings at any location in the district.

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

(i) *The board may use hearing examiners to hear any subject set for the hearing so long as the decision on that subject is the decision of the board. Procedures for use of hearing examiners shall be provided by rule.*

Sec. 151.073. COMPELLING TESTIMONY, SWEARING WITNESSES, AND SUBPOENAS. (a) *The board may compel the testimony of any person necessary to carry out its powers, duties, and functions under this chapter and may administer oaths to persons compelled to testify before the board or any person designated by the board.*

(b) *The board may issue subpoenas to compel the testimony of any person and the production of any document necessary to carry out the powers, duties, and functions under this chapter.*

Sec. 151.074. DISTRICT PLAN. (a) *The board shall formulate a plan to control and prevent subsidence in the district. The plan shall accomplish that purpose by reducing groundwater withdrawals to amounts that will restore and maintain sufficient artesian pressure to control and prevent subsidence.*

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

Sec. 151.075. PLANNING PROCEDURES. (a) *Included in the information to be gathered for formulation of the plan shall be:*

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

(2) *an accurate estimate of groundwater production from all wells or proposed wells in the district;*

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

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

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

(6) *the purposes for which the water is currently used and for which it is proposed to be used in the future;*

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

(8) *other necessary information and material to carry out the management of groundwater in the district and to effectively and expeditiously accomplish the purposes of this chapter.*

(b) *Before the plan is adopted, the board shall hold a hearing to consider the proposed plan.*

(c) *After the hearing, the board shall make any changes it considers necessary according to evidence and material presented at the hearing and shall adopt the plan.*

(d) *The plan adopted under this section may be amended or repealed and a new plan adopted as provided in this section for the adoption of the original plan. A plan, once adopted, remains in effect until the adoption of a new plan.*

Sec. 151.076. BOARD INVESTIGATIONS. *At least once each year and at any other time that the board considers necessary, the board shall have its staff and the staff of the Texas Water Development Board, if necessary, make a complete study of the groundwater situation in the district and determine the water level, rates of withdrawal, amounts of withdrawal, and other information relating to the withdrawal of groundwater that may effect the subsidence of land in the district.*

Sec. 151.077. ANNUAL GROUNDWATER-WITHDRAWAL DETERMINATION. (a) *On or before March 31 of each year, the board shall hold a hearing to determine the effects of groundwater withdrawal during the preceding groundwater-withdrawal year on the subsidence of land within the district.*

(b) *At the hearing, the board shall consider information developed under Sections 151.127 and 151.076 of this code in addition to information represented by persons appearing before the board.*

(c) After the hearing, the board shall consider all information presented to it, shall make determinations of groundwater withdrawal in the district during the immediately preceding groundwater-withdrawal year, and shall make findings of the effects of groundwater withdrawal during that groundwater-withdrawal year on the subsidence of land in the district. Those findings and determinations shall be included in a report adopted by the board and shall be made available for examination by any interested persons.

Sec. 151.078. **REGULATION OF SPACING AND PRODUCTION.** (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 and may regulate the production of groundwater from the wells, taking into consideration, among other relevant factors, the economic impact on well owners and the resulting effect on subsidence.

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

Sec. 151.079. **WATER CONSERVATION MEASURES.** The board may adopt rules requiring the use of water conservation measures as a means to reduce groundwater withdrawals. The district may also cooperate with the commission and any local government to establish water conservation goals, guidelines, and plans to be used within the district. The district may contract with any local government in the district to provide services necessary to meet water conservation requirements established by the commission.

Sec. 151.080. **REQUIRING WATER-METERING DEVICES.** The board may require water-metering devices to be placed on wells.

Sec. 151.081. **MONITORING AND SUPERVISION BY DISTRICT.** The district may use subsidence compaction monitors, water-level observation wells, and other materials and equipment to determine the amount of groundwater that may be produced while at the same time allowing the rebound and stabilization of groundwater to a level that will halt subsidence.

Sec. 151.082. **RESEARCH AND STUDIES.** The district may conduct any studies and research that the board considers necessary to implement this chapter. The district may use the services of geologists, hydrologists, registered professional engineers, or other expert personnel to accomplish the purposes of this section.

Sec. 151.083. **COOPERATION WITH AND ASSISTANCE OF OTHER GOVERNMENTAL ENTITIES; GRANTS.** (a) The board may cooperate with and request the assistance of local governments and any agency of the state or of the United States in implementing this chapter.

(b) The district may make or accept grants, gratuities, advances, or loans in any form to or from any public source approved by the board, including any governmental entity, and may enter into contracts, agreements, and covenants that the board considers appropriate in connection with grants, gratuities, advances, or loans.

Sec. 151.084. **EXCLUSIONS.** (a) The regulatory provisions of this chapter do not apply to:

- (1) wells regulated under Chapter 27 of this code;
- (2) other wells as provided in the rules of the district; and
- (3) wells with a casing diameter of less than five inches that serve a single-family dwelling.

(b) The board by rule may require the registration of any well in the district.

[Sections 151.085–151.120 reserved for expansion]

SUBCHAPTER D. PERMITS

Sec. 151.121. **PERMIT REQUIREMENT.** Before a well may be drilled or operated within the boundaries of the district the owner or operator of the well must obtain a permit from the board.

Sec. 151.122. **TERM OF PERMIT.** (a) A permit issued under this chapter may be for a term of up to five years as set by the board.

(b) A permit does not become a vested right in the holder. A permit may be revoked or suspended or its terms may be modified or amended after notice and hearing whenever reasonably necessary to accomplish the purposes of this chapter.

Sec. 151.123. *RENEWAL OF PERMIT.* A permit for a well may be renewed by the board in the manner provided for obtaining the original permit.

Sec. 151.124. *APPLICATION FOR PERMIT.* (a) A person who desires to obtain a permit under this chapter shall submit to the board an application.

(b) The application must state:

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

(c) The application shall be accompanied by a reasonable application fee to be used for processing the application, the amount of which shall be set by the board.

Sec. 151.125. *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) Notice of the date, time, and location of the hearing shall be given by the board to the applicant by certified mail, return receipt requested, and in accordance with the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

(c) The board may consider as many applications for permits as it thinks necessary at any one hearing.

Sec. 151.126. *DECISION AND ISSUANCE OF A PERMIT.* (a) Within a reasonable period after the hearing, but not later than the 60th day after the date of the hearing, the board shall decide whether or not to issue a permit and, if the decision is to issue the permit, shall formulate the terms of the permit.

(b) In deciding whether or not to issue a permit and in setting the terms of the permit, the board shall consider, along with the purpose of this chapter and all other relevant factors:

- (1) the district plan;
- (2) the quality, quantity, and availability of surface water at prices competitive with those charged by suppliers of surface water in the district;
- (3) the economic impact on the applicant from grant or denial of the permit, or the terms prescribed by a permit, in relation to the effect on subsidence that would result; and
- (4) the applicant's use of water conservation measures.

(c) The board shall grant a permit to an applicant if the board finds, on presentation of adequate proof, that there is no other adequate and available substitute or supplemental source of surface waters at prices competitive with those charged by suppliers of surface water in the district and that 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 any lawful business, occupation, or activity without sufficient corresponding benefit or advantage to the people.

(d) If the board decides to issue the permit, the permit shall be issued to the applicant stating the terms prescribed by the board.

(e) The permit shall 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 is to expire;
- (4) conditions and restrictions placed on the withdrawal of groundwater; and
- (5) other terms and conditions necessary to control and prevent subsidence.

(f) The board may not require a city with a population of less than 100,000 to reduce its groundwater withdrawal by more than 50 percent in any three-year period if the city or its residents would face a hardship by that reduction. The board shall determine in public hearing whether or not the reduction would constitute a hardship to the city or its residents. In this subsection, "hardship" means any reduction in groundwater withdrawal that would:

- (1) cause the city to have an inadequate supply of water for its residents; or
- (2) cause an increase of 50 percent or more in water rates for the city or its residents.

Sec. 151.127. ANNUAL REPORTS. Before January 31 of each year, each owner of a well who holds a permit under this chapter shall submit to the board a report stating:

- (1) the name of the owner of the well;
- (2) the total amount of groundwater produced by the well during the immediately preceding 12-month period;
- (3) the total amount of groundwater produced by the well during each separate month of the immediately preceding 12-month period;
- (4) the purpose for which the groundwater was used; and
- (5) any other information considered necessary by the board.

Sec. 151.128. PERMIT FEE. (a) At the time of issuance or renewal of a permit, the board shall collect from the applicant a permit fee, established by a schedule based on the term of the permit and the maximum annual amount of groundwater authorized by the board to be withdrawn from the well.

(b) The rate of the fee to be collected by the board under this section shall be determined by the board after a hearing. The rate of the fee may not exceed 110 percent of the highest rate charged by the city of Houston for surface water supplied to its customers in the district.

(c) The rate of the permit fee applicable to any well used for the irrigation of agricultural crops shall be the lowest of:

- (1) 70 percent of the lowest rate established under Subsection (b) of this section;
- (2) 70 percent of one cent for each thousand gallons authorized to be withdrawn, provided that the board may adjust the one cent for each thousand gallons each year after 1992 to account for increases, if any, in the most recently published Consumer Price Index for All Urban Consumers (Houston, Texas, Average), as determined by the United States Department of Labor, Bureau of Labor Statistics, for All Items; or
- (3) the rate established in accordance with Subsection (d) of this section.

(d) Using information prepared by the United States Geological Survey, which shall be presumed correct, the board, at a hearing held in accordance with Section 151.072 of this code, shall calculate and determine the difference between water wells pumped for irrigation of agricultural crops and water wells pumped for other purposes in terms of their relative contribution to subsidence, expressed as a percentage. The rate of the fee for wells used for irrigation of agricultural crops shall be sufficient for the total of those fees to contribute to the fee revenue of the district the same percentage as the agricultural use contributes to subsidence.

(e) The funds obtained from the permit fees collected under this section shall be used to cover the costs of the board in issuing permits and performing other regulatory functions of the district.

Sec. 151.129. LIMITATIONS ON CONVERSION TO SURFACE WATER. (a) The board may not issue an order requiring a person to completely or partially discontinue the use of groundwater unless the person is able to acquire a water supply that is composed of surface water needed to replace the water supply covered by the order. This section does not limit the board's authority to issue orders and rules requiring a person to reduce groundwater use by eliminating waste or implementing water conservation.

(b) If the person covered by an order under this section acquires an alternative water supply to fulfill the needs created by the board's order under this section and files with the commission a written request for monitoring of the alternative supply, the commission shall monitor annually from the date of request to the expiration of the annual permit the water

delivered to the person covered by the order to determine the percentage of that water that is surface water and the percentage of that water that is groundwater.

(c) The water deliveries must be monitored at random times at all points of connection between the purchaser's and seller's water systems. Samples taken through monitoring must be analyzed by water chemists employed by or contracting with the commission. The water chemist making each analysis shall issue a certified written analysis of the percentages of surface water and groundwater included in the sample.

(d) Not later than the 15th day after the last day of each permit year, the commission shall issue an annual certified written analysis based on all of the samples collected that will state the annual average percentage of surface water and the annual average percentage of groundwater provided to the purchaser by the seller for that permit year. In addition to the percentage of groundwater authorized to be used by the board's order, the person may use in the current permit year an additional percentage of groundwater that is equal to a percentage derived by multiplying the annual average percentage of groundwater delivered to that person during the preceding permit year by the total percentage of alternative water supply mandated by the board's order for the current year.

(e) The commission shall assess reasonable fees to cover the costs of the water sampling and analysis, one-half to the water purchaser and one-half to the water seller. On request, the commission shall make results of the analysis available to the purchaser, the seller, or the board.

(f) In this section, "alternative water supply" means a water supply that it is necessary for the person to acquire from sources other than the person's own groundwater supply to comply with the board's order.

[Sections 151.130–151.160 reserved for expansion]

SUBCHAPTER E. APPEALS; PENALTIES

Sec. 151.161. **APPEAL OF SURFACE WATER RATES.** If a person required to convert to surface water purchases that water supply wholesale from a political subdivision as defined by Section 12.013(b) of this code, the rates charged by the political subdivision to that person may be appealed to the commission under Chapter 12 of this code, and the rules adopted under that chapter apply to appeals under this section. The commission shall convene the hearing on the appeal not later than the 180th day after the date on which the appeal is filed with the commission and shall render a final decision on the appeal not later than the 60th day following the date on which the hearing ends.

Sec. 151.162. **APPEAL OF DISTRICT ACTIONS.** (a) A rule, order, or other official action of the district under this chapter may be appealed to a district court in any county in the district by a person who is adversely affected. An appeal under this section must be filed within 45 days after the rule, order, or other official action appealed from is adopted or taken.

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

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

(d) For purposes of this section, "a person who is adversely affected" includes a person residing in or owning real property in the district whose residence or real property is subsiding.

Sec. 151.163. **APPEAL OF CERTAIN DISTRICT ACTIONS TO THE COMMISSION.** (a) As an alternative to the appeal provided in Section 151.162 of this code, a person who is granted a permit authorizing withdrawal of groundwater in an amount less than requested by that person may appeal the board's final decision to the commission. The appeal shall be

filed not later than the 60th day after the date on which the board issues its final order. A person shall be informed in the notice of public hearing when an order to convert to surface water is to be considered.

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

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

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

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

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

(g) The review of a commission order on appeal shall be under the substantial evidence rule.

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

Sec. 151.164. **PENALTIES.** (a) If it appears that a person has violated or is violating or threatening to violate this chapter, or any rule, permit, or other order of the district issued or adopted under this chapter, the district may file a civil suit 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 nor more than \$5,000 for each violation and for each day of 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 a provision of this chapter or a rule, permit, or other order of the district under this chapter, the district court shall grant any injunctive relief the facts may warrant.

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

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

SECTION 2. The following acts are repealed:

(1) Chapter 284, Acts of the 64th Legislature, Regular Session, 1975;

(2) Chapter 557, Acts of the 65th Legislature, Regular Session, 1977; and

(3) Chapter 1107, Acts of the 70th Legislature, Regular Session, 1987.

SECTION 3. (a) If an Act amending and consolidating the laws relating to conservation and reclamation districts is passed by the 73rd Legislature, Regular Session, 1993, and finally becomes law:

(1) a reference in Section 151.003(b), Water Code, as added by this Act, to Sections 55.730-55.744, Water Code, is a reference to Subchapter I, Chapter 49, Water Code; and

(2) a reference in Section 151.005(a), Water Code, as added by this Act, to Chapter 50, Water Code, is a reference to Chapter 49, Water Code.

(b) If an Act described by Subsection (a) of this section does not become law, this section has no effect.

SECTION 4. The powers, duties, rights, and obligations of the Texas Natural Resource Conservation Commission under this Act are the powers, duties, rights, and obligations of the Texas Water Commission or its successor if:

(1) the change in name of the Texas Water Commission to the Texas Natural Resource Conservation Commission does not take effect as provided by Section 1.085, Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991;

(2) the transfer of the powers, duties, rights, and obligations of the Texas Water Commission to the Texas Natural Resource Conservation Commission does not take effect as provided by Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991; or

(3) the 73rd Legislature does not pass an Act that becomes law and provides for the transfer of certain powers, duties, rights, and obligations of the Texas Water Commission to the Texas Natural Resource Conservation Commission on or before September 1, 1993.

SECTION 5. This Act takes effect September 1, 1993.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 15, 1993, by a non-record vote; passed by the Senate on May 19, 1993: Yeas 31, Nays 0.

Approved May 31, 1993.

Effective Sept. 1, 1993.