

## **BILL ANALYSIS**

Senate Research Center  
81R35480 SGA-F

C.S.H.B. 3335  
By: Callegari (Averitt)  
Natural Resources  
5/23/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There are approximately 1,300 active water districts within the State of Texas. These districts include municipal utility districts, fresh water supply districts, and, among others, water control and improvement districts. In general these districts have the authority to issue bonds, levy taxes, exercise the power of eminent domain, supply treated and untreated water, implement drainage and flood control projects, develop and maintain parks and recreational facilities, and, in certain cases, build roads. As such, they are governed by elected boards that have the authority to adopt and enforce a variety of rules and regulations.

This bill is an omnibus bill proposing several changes relating to the powers and authority of water districts.

C.S.H.B. 3335 amends current law relating to the creation and powers of certain groundwater and surface water districts.

[**Note:** While the statutory reference in this bill is to Texas Natural Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. GENERAL LAW PROVISIONS

SECTION 1.01. Amends Section 35.012, Water Code, by amending Subsections (b) and (c) and adding Subsections (d)-(f), as follows:

(b) Requires the Texas Natural Resource Conservation Commission (TNRCC), except as provided under Section 35.013 (Adding Priority Groundwater Management Area to Existing District), within two years, but no sooner than 120 days, from the date on which TNRCC issues an order under Section 35.008 (Procedures for Designation of Priority Groundwater Management Area; Consideration of Creation of New District or Addition of Land in Priority Groundwater Management Area to Existing District; Commission Order) designating a priority groundwater management area, for those areas that are not within a district, to create one or more new districts under Section 36.0151 (Creation of District for Priority Groundwater Management Area), rather than to create one or more new districts under Section 36.0151, recommend that the areas, or a portion of the areas, be added to an existing district under Section 35.013, or take any combination of the actions under Subsections (1) and (2).

(c) Requires that a district created under Section 36.0151, except as provided by Subsection (d), be composed of territory within two or more contiguous counties, unless TNRCC determines that a district composed of territory within noncontiguous counties will result in more effective or efficient groundwater management than other legal options available to TNRCC.

(d) Authorizes a district created under Section 36.0151 to be composed of territory that exists within the boundaries of a single county only if:

(1) the territory within the single county is the only area within the designated priority groundwater management area that is not within a district; or

(2) there are other areas within the designated priority groundwater management area, but the other areas are not contiguous to the territory, and TNRCC determines that creating a single district composed of two or more of the noncontiguous areas, including the territory, would result in less effective or less efficient management of groundwater resources in the territory than creating a district composed of the territory within the single county.

(e) Authorizes TNRCC, for purposes of this section, to consider territory in two separately designated priority groundwater management areas to be within the same designated priority groundwater management area if the priority groundwater management areas share a common boundary and one or more common aquifers and TNRCC determines that a district composed of territory within the two areas will result in more effective or efficient groundwater management than other legal options available to TNRCC.

(f) Creates this subsection from existing text.

SECTION 1.02. Amends Sections 35.013(b), (c), (h), and (i), Water Code, as follows:

(b) Requires the board of the district to which TNRCC is recommending the priority groundwater management area to be added (board) to vote not later than the 120th day after receiving the copy of the order from TNRCC on the addition of the priority groundwater management area to the district and to advise TNRCC of the outcome.

(c) Provides that if the board votes to accept the addition of the priority groundwater management area to the district, the board:

(1) is authorized to request the Texas Agricultural Extension Service, TNRCC, and the Texas Water Development Board (TWDB), with the cooperation and assistance of the Texas Department of Agriculture (TDA) and other state agencies, to administer an educational program to inform the residents of the status of the area's water resources and management options including possible annexation into a district;

(2) is required to call an election to be held not later than the 270th day after the date of the board's vote under Subsection (b) within the priority groundwater management area, or portion of the priority groundwater management area, as delineated by TNRCC to determine whether, rather than if, the priority groundwater management area will be added to the district; and

(3) is required to designate election precincts and polling places for the elections in the order calling an election under this subsection.

(h) Requires TNRCC, if the proposition is defeated, or if the board of the existing district votes not to accept the addition of the area to the district, to, except as provided under Subsection (i), create under Section 36.0151 one or more districts covering the priority groundwater management area not later than the later of:

(1) the second anniversary of the date on which TNRCC issued its order under Section 35.008 designating a priority groundwater management area; or

(2) the 180th day after the date described under Subdivision (1) if the legislature is in session on the date described under Subdivision (1) and a bill has been filed and is pending before the legislature to create a district in all or part of the area or to add all or part of the area to an existing district, rather than the later of the first

anniversary of the date on which the proposition is defeated or the board votes not to accept the area.

- (i) Authorizes TNRCC, in creating a district under Section 36.0151, to modify the recommendation issued in its order for district creation under Section 35.008 to reflect the failure of an area to be added to an existing district or to account for the creation of any new districts or the addition of any other territory in the priority groundwater management area to an existing district during the intervening period, provided, however, that such modification does not affect the deadlines for district creation under Section 35.012 or this section.

SECTION 1.03. Amends Section 49.101, Water Code, as follows:

Sec. 49.101. GENERAL. (a) and (b) Creates these subsections from existing text.

(c) Authorizes the board of a district to contract with a person to serve as the district's agent in the same manner as another officer or employee of the district under Section 31.123 (Appointment of Agent During Election Period), Election Code.

(d) Provides that Sections 32.009 (Notice of Appointment) and 42.002 (Required Use of County Precincts), Election Code, do not apply to an election held by a district.

(e) Requires a person, notwithstanding the requirements of Section 32.051 (General Eligibility Requirements), Election Code, to serve as an election judge in an election held by a district, to be a registered voter of the county in which the district is located.

(f) Provides that notwithstanding Sections 61.012 (Access by Persons with Disabilities) and 61.013 (Access by Persons with Disabilities: Elections of Certain Political Subdivisions), Election Code, a district is exempt from the acquisition, lease, or use of an electronic voting system for an election if the election is a conformation election or an election held jointly with a confirmation election on the same date and in conjunction with the confirmation election, except for an election in which a federal office appears on the ballot; the most recently scheduled district directors election was not held, as provided by Section 2.053(b) (relating to requirements or an election), Election Code; or fewer than 250 voters voted at the most recently held district directors election.

(g) Requires a district eligible for the exemption under Subsection (f) to publish notice in a periodical of general circulation in an area that includes the district and mail notice to each voter in the district regarding the district's intention to hold an election without providing a voting station that meets the requirements for accessibility under 42 U.S.C. (The Public Health and Welfare) Section 15481(a)(3) (Accessibility for Individuals with Disabilities) on election day and during the period for early voting by personal appearance. Requires that the notice provide that any voter in the district may request the use of a voting station that meets those requirements to accommodate voting by a person with a disability and provide information on how to submit such a request. Requires the district, on receiving such a request, to comply with the request.

SECTION 1.04. Amends Subchapter D, Chapter 49, Water Code, by adding Section 49.1045, as follows:

Sec. 49.1045. JOINT ELECTIONS WITH COUNTIES. (a) Provides that this section applies only to a district with 10 or fewer registered voters.

(b) Authorizes a district that holds an election jointly with a county in which the district is wholly or partly located to provide for a certification of the voting results if the election results indicate that there were more votes cast in the general

election that the number of registered voters in the district. Authorizes the district, to certify the district votes, to have each person whose signature is on the sign-in sheet for the joint election certify the manner in which the person voted in the election and that the person was a qualified voter on the date of the election, and the certified votes are required to be used as the official election results.

SECTION 1.05. Amends Section 49.107, Water Code, by adding Subsection (i), to provide that Section 375.161 (Certain Residential Property Exempt), Local Government Code, does not apply to an impact fee, tax, or other requirement for payment for water, sewer, drainage, reclamation, flood control, road, or park and recreational services or improvements of a district that provides, or proposes to provide, those services or improvements.

SECTION 1.06. Amends Section 49.108, Water Code, by adding Subsections (g), (h), (i), and (j), as follows:

(g) Requires that a substantially final form of the contract, not later than the 10th day before the date an election is held to authorize the contract, be filed in the office of the district and be open to inspection by the public. Provides that the contract is not required to be attached as an exhibit to the order calling the election to authorize the contract.

(h) Authorizes a single contract to contain multiple purposes or facilities authorized by one or more constitutional provisions. Authorizes a contract described by this subsection to be submitted for approval in a single proposition at an election.

(i) Provides that a contract between districts for the provision of facilities or services is not required to specify the maximum amount of bonds or expenditures authorized under the contract if the contract provides that the service area cannot be enlarged without the consent of at least two-thirds of the districts that are included in the service area or served by the facilities or services provided for in the contract.

(j) Authorizes a contract to generally describe the facilities to be acquired or financed by the district without reference to specific constitutional provisions.

SECTION 1.07. Amends Section 49.151(c), Water Code, to authorize the board to allow disbursements of district money to be transferred by federal reserve wire system or by electronic means. Authorizes the board by resolution to allow the wire or electronic transfers to accounts in the name of the district or accounts not in the name of the district.

SECTION 1.08. Amends Section 49.194, Water Code, by amending Subsections (a) and (b) and adding Subsection (h), as follows:

(a) Creates an exception under Subsection (h).

(b) Creates an exception under Subsection (h).

(h) Requires a special water authority to submit a copy of the report to the executive director for filing within 160 days after the close of the special water authority's fiscal year.

SECTION 1.09. Amends Section 49.213, Water Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Authorizes the district to enter into contracts, which may be of limited duration, with persons or any public or private entities on the terms and conditions the board may consider desirable, fair, and advantageous for certain uses, including the establishment, administration, and enforcement of a groundwater reduction plan to comply with regulatory requirements of a political subdivision whose main office is located in a county with a population of more than 3.3 million or in a county adjacent to such a county. Makes nonsubstantive changes.

(d) Provides that a written contract between a district and any person, including any public or private entity, for the provision of goods or services to the district, including a contract entered into with a governmental entity, other than a county, under Subsection (c)(7) (relating to the groundwater reduction plan) is a contract subject to Subchapter I (Adjudication of Claims Arising Under Written Contracts with Local Governmental Entities), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code. Provides that the district and any person, including any public or private entity, waive sovereign immunity to suit for the purpose of adjudicating a claim for a breach of the contract, subject to the terms and conditions of Subchapter I, Chapter 271, Local Government Code.

SECTION 1.10. Amends Section 49.216, Water Code, by amending Subsection (e) and adding Subsection (f), as follows:

(e) Requires any peace officer who is directly employed by a district, before beginning to perform any duties and at the time of appointment, to take an oath and execute a bond conditioned on faithful performance of such officer's duties in the amount of \$1,000 payable to the district.

(f) Provides that a peace officer contracted for by the district, individually or through a county, sheriff, constable, or municipality, is an independent contractor, and the district is responsible for the acts or omissions of the peace officer only to the extent provided by law for other independent contractors.

SECTION 1.11. Amends Section 49.273(d), Water Code, to require that the notice be published once a week for two consecutive weeks before the date that the bids are opened, and that the first publication be not later than the 14th, rather than the 21st, day before the date of the opening of the sealed bids. Makes conforming changes.

SECTION 1.12. Amends Section 49.351, Water Code, by amending Subsections (a), (b), (c), (f), (i), and (l), and adding Subsection (m), as follows:

(a) Authorizes a district providing potable water or sewer service to household users to establish, operate, and maintain, finance with ad valorem taxes, mandatory fees, or voluntary contributions, and issue bonds for a fire department to perform all fire-fighting services within the district as provided in this subchapter and is authorized to provide for the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply, rather than issue bonds or impose a mandatory fee, with voter approval, for financing a plan approved in accordance with this section, including, the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply.

(b) Requires the district or districts, after complying with the requirements of this section, to provide an adequate system and water supply for fire-fighting purposes, authorizes the district to purchase necessary land, to construct and purchase necessary buildings, facilities, and equipment, and to employ or contract with a fire department to employ all necessary personnel including supervisory personnel to operate the fire department. Deletes existing text requiring the district or districts, after approval of the district electors of a plan to operate, jointly operate, or jointly fund the operation of a fire department, and after complying with Subsections (g) (relating to a prohibition on the board from subdividing work to avoid certain advertising requirements), (h) (relating to a prohibition against accepting bids that include substituted items unless certain conditions are met), and (i) (relating to authorization for the board to approve certain changes in plans or specifications), to provide certain supplies and authorizing the district to conduct certain actions.

(c) Provides that bonds are required to be authorized and may be issued and ad valorem taxes are required to be authorized and may be imposed for financing a plan approved in accordance with this section as provided by law for authorization and issuance of other bonds and authorization and imposition of other ad valorem taxes of the district. Deletes

existing text requiring that bonds for financing a plan approved in accordance with this section be authorized and may be issued, and requiring a district to be authorized to levy a tax to pay the principal of and interest on such bonds, as provided by law for authorization and issuance of other bonds of the district.

(f) Requires a district, before the district imposes an ad valorem tax or issues bonds payable wholly or partly from ad valorem taxes to finance the establishment of a fire department, a contract to operate a joint fire department, or a contract with another person to perform fire-fighting services within the district, to comply with the provisions of Subsections (g), (h), and (i). Provides that a district that funds fire-fighting services with revenue, including mandatory fees or voluntary contributions, is not required to comply with the provisions of Subsection (g), (h), or (i). Makes nonsubstantive changes.

(i) Requires the district, after approval of a plan by the Texas Natural Resource Conservation Commission (TNRCC), to submit to the electors of the district at the election to approve bonds payable wholly or partly from ad valorem taxes or to impose ad valorem taxes, rather than to impose a mandatory fee, for financing the plan which may be held in conjunction with an election required by Section 49.102 (Confirmation and Director Election), the proposition of whether or not the plan should be implemented or entered into by the district, rather than for financing the plan, or if no bonds or fees are to be approved, at an election called for approval of the plan, which may be held in conjunction with an election required by Section 49.102, the proposition of whether or not the plan should be implemented or entered into by the district. Deletes existing text requiring that the ballots at the election be printed with certain language, as applicable, to provide for voting for or against the proposition.

(l) Authorizes a district providing potable water or sewer service to household users as part of its billing process to collect from its customers a voluntary contribution on behalf of organizations providing fire-fighting services to the district, rather than authorizes a district providing potable water or sewer service to household users as part of its billing process, notwithstanding the requirements of Subsections (a)-(j) (relating to fire departments), to collect from its customers a voluntary contribution on behalf of organizations providing fire-fighting services to the district.

(m) Requires the district, notwithstanding Subsection (l), if a customer makes a partial payment of a district bill for water or sewer service and includes with the payment a voluntary contribution for fire-fighting services, to apply the voluntary contribution first to the bill for water or sewer service, including any interest or penalties imposed. Requires that any amount remaining be used for fire-fighting services.

SECTION 1.13. Amends Section 49.4645(a), Water Code, to prohibit the outstanding principal amount of bonds, notes, and other obligations issued to finance parks and recreational facilities supported by ad valorem taxes, rather than payable from any source, from exceeding an amount equal to one percent of the value of the taxable property in the district as shown by the tax rolls of the central appraisal district at the time of the issuance of the bonds, notes, and other obligations or an amount greater than the estimated cost provided in the park plan under Subsection (b) (relating to a requirement that the board file certain information relating to the public park plan), whichever is smaller.

SECTION 1.14. Amends Section 51.523, Water Code, to require that the ballot for an election under this subchapter be printed to provide for or against defining the area to be taxed or designating the property to be served, affected, and taxed and, if applicable, issuing bonds and imposing a tax to retire the bonds or imposing a maintenance tax not to exceed the rate, which is required to be specified in the ballot proposition, provided by the proposed plan of taxation, rather than printed to provide for voting for or against substantially the proposition: "Designation of the area, issuance of bonds, and levy of a tax to retire the bonds."

SECTION 1.15. Amends Section 51.527, Water Code, by adding Subsection (c), to authorize the board, unless a maintenance tax is imposed in the defined area or on the designated property, once bonds issued for the defined area or designated property are paid off or defeased, to declare the defined area dissolved or to repeal the designation of the designed property, at which time the

board is required to cease imposing taxes on the property located in the defined area or on the designated property.

SECTION 1.16. Amends Section 54.236, Water Code, to authorize a district, subject to the provisions of this section, to purchase, install, operate, and maintain street lighting or security lighting within public utility easements or public rights-of-way or property owned by the district, rather than within the boundaries of the district. Prohibits a district, other than a district exercising powers under Section 54.234 (Acquiring Road Powers) or Subchapter N (Recreational Facilities), Chapter 49 (Provisions Applicable to all Districts), from issuing bonds supported by ad valorem taxes to pay for the purchase, installation, and maintenance of street or security lighting.

SECTION 1.17. Amends Section 54.739, Water Code, as follows:

Sec. 54.739. New heading: **SUBSTITUTING PROPERTY OF EQUAL VALUE.** Provides that after the district is organized and has obtained voter approval for the issuance of, or has sold, bonds payable wholly or partly from ad valorem taxes, property within the district boundaries subject to taxation that does not need or utilize the services of the district may be excluded and other property, rather than land, not within the boundaries of the district may be included within the boundaries of the district without impairment of the security for payment of bonds, rather than the bonds, or invalidation of any prior bond election, as provided by this section and Sections 54.740 through 54.747 (relating to Municipal Utility Districts). Deletes existing text providing that after the district is organized and acquires facilities with which to function for the purposes for which it was organized, and votes, issues and sells bonds for such purposes, land within the district boundaries subject to taxation and does not need or utilize the services of the district is authorized to be treated in certain ways.

SECTION 1.18. Amends Section 54.744, Water Code, as follows:

Sec. 54.744. **IMPAIRMENT OF SECURITY.** (a) Creates this subsection from existing text. Requires that the land proposed for inclusion, for purposes of the board's consideration of the applications, be deemed to be sufficient to avoid an impairment of the security for payment of obligations of the district under certain circumstances, including with respect only to a district with outstanding bonds or contract obligations, rather than the district's outstanding bonds or contract obligations are, payable in whole or in part by a pledge of net revenues from the ownership or operation of the district's facilities, the projected net revenues to be derived from the property, rather than lands, to be included in the succeeding 12-month period, as determined by the district's engineer, equals or exceeds the projected net revenues that would otherwise have been derived from the property, rather than lands, to be excluded during the same period. Makes a nonsubstantive change.

(b) Provides that for purposes of this section, the taxable value of included property means the market value of the property if, before or contemporaneously with the inclusion of the property in the district, the owner of the property waives the right to special appraisal of the property as to the district as authorized by Section 23.20 (Waiver of Special Appraisal), Tax Code.

SECTION 1.19. Reenacts Section 388.005, Health and Safety Code, by adding Chapters 262 (S.B. 12) and 939 (H.B. 3693), Acts of the 80th Legislature, Regular Session, 2007, and amends it as follows:

Sec. 388.005. New heading: **ENERGY EFFICIENCY PROGRAMS IN INSTITUTIONS OF HIGHER EDUCATION AND CERTAIN GOVERNMENTAL ENTITIES.** (a) Makes no changes to this subsection.

(b)-(f) Makes no changes to these subsections.

(g) Provides that this section does not apply to the electricity consumption of a district as defined by Section 36.001 (Definitions) or 49.001 (Definitions), Water

Code, that relates to the operation and maintenance of wastewater collection and treatment, water supply and distribution, or stormwater diversion, detention, or pumping facilities or improvement.

SECTION 1.20. Amends Section 43.0751(a)(1), Local Government Code, to redefine "district."

SECTION 1.21. Amends Section 43.0751, Local Government Code, by adding Subsection (r), to require that an area, to be annexed for limited purposes under this section, be in the municipality's extraterritorial jurisdiction; and contiguous to the corporate or limited purpose boundaries of the municipality, unless the district consents to noncontiguous annexation pursuant to a strategic partnership agreement with the municipality.

SECTION 1.22. Prohibits the Texas Commission on Environmental Quality (TCEQ), notwithstanding Section 35.012, Water Code, as amended by this article, and Section 36.0151, Water Code, from creating a groundwater conservation district under Section 36.0151, Water Code, before September 1, 2011, in territory that exists within the boundaries of a single county in which total surface water use is more than 50 times the total groundwater production and that is located in a priority groundwater management area.

SECTION 1.23. Prohibits TCEQ, notwithstanding Section 35.012, Water Code, as amended by this article, and Section 36.0151, Water Code, from creating a groundwater conservation district under Section 36.0151, Water Code, before September 1, 2011, in territory that is located in an area that on or after September 1, 2008, is designated by TNRCC as a priority groundwater management area.

## ARTICLE 2. PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT

SECTION 2.01. Provides that the purpose of Chapter 8855, Special District Local Laws Code, as added by this article, is to establish the powers and authority of a certain district to be created in a part of this state that under Chapter 35 (Groundwater Studies), Water Code, TCEQ has designated a priority groundwater management area.

SECTION 2.02. Amends Subtitle H, Title 6, Special District Local Laws Code, by adding Chapter 8855, as follows:

### CHAPTER 8855. PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8855.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8855.002. NATURE OF DISTRICT; FINDINGS. (a) Provides that the Prairielands Groundwater Conservation District (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 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

(b) Provides that the district is created to serve a public use and benefit.

(c) Provides that 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 (Groundwater Conservation Districts), Water Code.

(d) Provides that 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. Provides that the initial boundaries of the district are coextensive with the boundaries of Ellis, Hill, Johnson, and Somervell Counties.

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

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

[Reserves Sections 8855.006-8855.020 for expansion.]

#### SUBCHAPTER B. INITIAL ORGANIZATION

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

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

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

(d) Requires a person to be a registered voter in the appointing county to be eligible to serve as an initial director.

(e) Requires that each initial director qualify to serve as a director under Section 36.055 (Sworn Statement, Bond, and Oath of Office), Water Code.

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

Sec. 8855.023. INITIAL TERMS. (a) Requires the two initial directors appointed from each county to 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) Requires that each successor director be appointed and serve in accordance with Subchapter C.

[Reserves Sections 8855.024-8855.050 for expansion.]

#### SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 8855.051. GOVERNING BODY; TERMS. (a) Provides that except as provided by Subchapter D, the district is governed by a board of eight directors appointed as follows: two directors appointed by the Ellis County Commissioners Court; two directors

appointed by the Hill County Commissioners Court; two directors appointed by the Johnson County Commissioners Court; and two directors appointed by the Somervell County Commissioners Court.

(b) Provides that 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) Authorizes a director to serve multiple consecutive terms.

Sec. 8855.052. DIRECTOR ELIGIBILITY; QUALIFICATION. (a) Requires a person to be a registered voter in the appointing county to be eligible to serve as a director.

(b) Requires each director to qualify to serve under Section 36.055, Water Code.

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

Sec. 8855.054. COMPENSATION; REIMBURSEMENT. (a) Prohibits a director, notwithstanding Sections 36.060(a) (relating to entitling a director to receive not more than \$150 a day) and (d) (relating to Subsection (a) prevailing over any other law in conflict with that subsection), Water Code, from receiving compensation for performing the duties of director.

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

[Reserves Sections 8855.055-8855.070 for expansion.]

#### SUBCHAPTER D. DISTRICT EXPANSION

Sec. 8855.071. EXPANSION OF DISTRICT BOUNDARIES. (a) Requires that the district territory described in Section 8855.003, after the effective date of the Act enacting this chapter, be expanded to include all of the territory in Navarro County, and requires that the governing board described by Section 8855.051(a) be expanded to 10 members and include two directors appointed by the Navarro County Commissioners Court, if:

(1) pursuant to Chapter 35, Water Code, TCEQ 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 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 appoints two directors who are registered to vote in Navarro County to the board.

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

(c) Requires the two directors appointed under this section, at the first regular meeting of the board following the qualification of both directors, to 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) Requires a director appointed under this section to otherwise serve in accordance with Subchapter C.

[Reserves Sections 8855.072-8855.100 for expansion.]

#### SUBCHAPTER E. POWERS AND DUTIES

Sec. 8855.101. **GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES.** Provides that 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.** Authorizes the district to enter into a contract with any person, public or private, for any purpose authorized by law.

Sec. 8855.103. **APPLICABILITY OF DISTRICT REGULATIONS.** Provides that groundwater regulation under this chapter applies to all persons except as exempted from permitting under Section 36.117 (Exemptions; Exception; Limitations), Water Code, or this chapter.

Sec. 8855.104. **WELL SPACING RULES; EXEMPTIONS.** (a) Requires the district, except as provided by Subsection (b), to 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) Authorizes the district to 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) Authorizes the district, except as provided by this section and notwithstanding Section 8855.103, to require that a well or class of wells exempt from permitting under Chapter 36, Water Code, comply with the well spacing requirements adopted by the district. Requires the district to 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.** Authorizes the district to 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) (relating to a well used for domestic use or for providing water for livestock that is incapable of using more than 25,000 gallons per day), to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8855.106. **ENFORCEMENT.** (a) Authorizes the district to enforce this chapter against any person in the manner provided by Chapter 36, Water Code. Authorizes the district, in lieu of a remedy available to the district under Section 36.102 (Enforcement of Rules), Water Code, or in addition to those remedies, to 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. Provides that the purpose of a fee authorized by this subsection is to serve as a disincentive to producing groundwater except as authorized by the district.

(b) Prohibits a fee imposed under Subsection (a) from exceeding an amount equal to 10 times the amount of a fee assessed under Section 8855.152.

[Reserves Sections 8855.107-8855.150 for expansion.]

## SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 8855.151. TAXES PROHIBITED. Prohibits the district from imposing a tax. Provides that Sections 36.020(a) (relating to a bond and tax proposal) and 36.201 (Levy of Taxes), 301.202 (Board Authority), 36.203 (Tax Rate), and 36.204 (Tax Appraisal, Assessment and Collection), Water Code, do not apply to the district.

Sec. 8855.152. DISTRICT REVENUES. (a) Authorizes the district by rule, resolution, or order to 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. Authorizes the district to use revenue generated by fees it assesses for any lawful purpose.

(b) Prohibits a fee authorized by Subsection (a), notwithstanding any provision of general law to the contrary, from exceeding \$1 per acre-foot annually for groundwater used for agricultural purposes or 30 cents per thousand gallons annually for groundwater used for nonagricultural purposes.

(c) Authorizes the district, notwithstanding any provision of general law or this chapter to the contrary, if any, to assess a production fee under this section for groundwater produced from a well or class of wells exempt from permitting under Section 36.117, Water Code, except for a well exempt from permitting under Section 36.117(b)(1). Requires that a production fee assessed by the district under this subsection be based on the amount of groundwater actually withdrawn from the well and is prohibited from exceeding the amount established by the district for permitted uses under Subsection (b)(2) (relating to nonagricultural uses) of this section.

(d) Authorizes the district, notwithstanding Section 36.1071(f) (relating to requiring the district to adopt rules necessary to implement the management plan), Water Code, by rule, resolution, or order before the adoption of its management plan to establish, assess, and enforce the collection of production fees under this section, and establish and enforce metering and reporting requirements, except for a well exempt from permitting under Section 36.117(b)(1), Water Code.

(e) Authorizes the district by rule to 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.

SECTION 2.03. Provides that 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 article are fulfilled and accomplished.

## ARTICLE 3. EFFECTIVE DATES

SECTION 3.01. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2009.

(b) Effective date, Sections 1.01 and 1.02 of this Act: upon passage or September 1, 2009.