AN ACT
relating to the administration, powers, duties, and operation of
the Harris-Galveston Subsidence District and the Fort Bend
Subsidence District.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. The heading to Chapter 8801, Special District
Local Laws Code, is amended to read as follows:
CHAPTER 8801. HARRIS-GALVESTON [COASTAL] SUBSIDENCE DISTRICT
SECTION 2. Section 8801.001, Special District Local Laws
Code, is amended by amending Subdivisions (1) and (3) and adding
Subdivisions (1-a), (1-b), (3-a), (4-a), (4-b), and (5-a) to read
as follows:
(1) "Agricultural crop":
(A) means food or fiber commodities that are
grown for resale or commercial purposes and that are to be used for
food, clothing, or animal feed; and
(B) includes nursery products and florist items
that are in the possession of a nursery grower.
(1-a) "Beneficial use" means any use that is useful or
beneficial to the user, including:
(A) an agricultural, gardening, domestic, stock
raising, municipal, mining, manufacturing, industrial, commercial,
or recreational use, or a use for pleasure purposes; or
(B) exploring for, producing, handling, or
treating oil, gas, sulfur, or other minerals.

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

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

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

(4-a) "Nursery grower" means a person who grows in any medium more than 50 percent of the nursery products or florist items that the person sells or leases. A person grows a nursery product or florist item if the person cultivates or propagates the product or item by engaging in activities associated with the production or multiplying of stock, including the development of new plants from cuttings, grafts, plugs, or seedlings. The term does not include a person who merely holds or maintains a nursery product or florist item before sale or lease.

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

(5-a) "Waste" means:

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

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

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

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

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

(F) the escape of groundwater pumped for irrigation as irrigation tailwater onto land that does not belong to the owner of the well unless the occupant of the land receiving the discharge granted permission for the discharge; or

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

SECTION 3. Sections 8801.002 and 8801.005, Special District Local Laws Code, are amended to read as follows:
Sec. 8801.002. NATURE OF DISTRICT. The district is a groundwater conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, and is essential to accomplish the purposes of that section.

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

1. Section 8801.006 or its predecessor statute, former Section 151.003(b), Water Code; or
2. Subchapter J, Chapter 36, Water Code; or
3. other law.

SECTION 4. Subchapter B, Chapter 8801, Special District Local Laws Code, is amended by amending Sections 8801.052 through 8801.055 and adding Sections 8801.0551 and 8801.0552 to read as follows:

Sec. 8801.052. FEES OF OFFICE; REIMBURSEMENT [APPOINTMENT OF DIRECTORS ON ADDITION OF COUNTY TO DISTRICT]. (a) A director is entitled to fees of office of not more than $150 a day for each day the director actually spends performing the duties of a director. The fees of office may not exceed $9,000 a year. [On addition of a county to the district under Section 8801.006, two directors are added to the board as follows:]

1. the commissioners court of the county added to the district shall appoint one director, and
2. the mayor of the municipality that has the largest population in the added county shall appoint one director.

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

(c) To receive fees of office and reimbursement for
expenses, each director must file with the district a verified
statement that shows the number of days spent in the service of the
district and a general description of the duties performed for each
day of service. [The directors added to the board under Subsection
(a) shall draw lots to establish staggered terms of office.]}

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

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

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

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

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

Sec. 8801.055. MEETINGS. (a) The board shall hold regular
meetings once each month at a time set by the board. The board may
hold special meetings at the call of the chair (president) or on the
written request of at least three directors.

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

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

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

Sec. 8801.0552. SWORN STATEMENT, BOND, AND OATH OF OFFICE.
(a) As soon as practicable after a director is appointed, the
director shall make the sworn statement prescribed by the
constitution for public officers.

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

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

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

SECTION 5. Subsection (a), Section 8801.057, Special
District Local Laws Code, is amended to read as follows:

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

SECTION 6. Subchapter B, Chapter 8801, Special District
Local Laws Code, is amended by adding Sections 8801.059 through
8801.065 to read as follows:

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

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

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

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

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

(b) Disbursements must be signed by at least two directors unless the board by resolution allows certain employees of the district, or a combination of employees and directors, to sign disbursements on behalf of the board.

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

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

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

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

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

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

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

Sec. 8801.064. DEPOSITORY. (a) The board shall name one or more banks to serve as depository for district money.

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

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

Sec. 8801.065. INVESTMENTS. (a) District money may be invested and reinvested in accordance with Chapter 2256, Government
(b) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest district money and provide for money to be withdrawn from the appropriate district accounts for investments on terms that the board considers advisable.

SECTION 7. Sections 8801.101, 8801.102, 8801.105, and 8801.106, Special District Local Laws Code, are amended to read as follows:

Sec. 8801.101. DISTRICT POWERS AND DUTIES. [(a)] Except as provided by Section [Sections 8801.102 and] 8801.103, the district has all of the rights, powers, privileges, and authority necessary and convenient to exercise its jurisdiction and powers as provided by this chapter, whether the jurisdiction and powers are specifically authorized by this chapter or implied from this chapter or other law[, functions, and duties provided by the general laws of this state, including Chapter 36, Water Code, that are applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution].

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

Sec. 8801.102. NONAPPLICABILITY OF OTHER LAW. (a) Other laws governing the administration or operation of conservation and reclamation districts created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, including Chapters 36 and 49, Water Code, do not apply to the district.

(b) Notwithstanding Section 36.052, Water Code, this
chapter prevails over any other law in conflict or inconsistent with this chapter [EXEMPTIONS. Sections 36.104, 36.114, 36.117, and 36.201-36.204, Water Code, do not apply to the district].

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

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

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

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

(e) The district is not required to give bond for appeal, injunction, or costs in any suit to which it is a party.

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

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

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

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

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

SECTION 8. Subsection (a), Section 8801.108, Special
District Local Laws Code, is amended to read as follows:

(a) After notice and hearing, the board shall adopt rules
designed to expeditiously and effectively implement this chapter
and accomplish its purpose, including rules governing procedures
before the board. The board may adopt rules to prevent the waste of
groundwater or the degradation of water quality. The board shall
enforce the rules.

SECTION 9. Subsection (c), Section 8801.110, Special
District Local Laws Code, is amended to read as follows:

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

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

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

SECTION 10. Section 8801.114, Special District Local Laws
Code, is amended to read as follows:

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

(b) The district may collect any information that the board determines is necessary to implement this chapter, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir.

SECTION 11. Section 8801.117, Special District Local Laws Code, is amended by adding Subsection (e) to read as follows:

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

SECTION 12. Section 8801.118, Special District Local Laws Code, is amended to read as follows:

Sec. 8801.118. MONITORING AND SUPERVISION BY DISTRICT. (a) The district may use subsidence compaction monitors, water-level observation wells, and other materials and equipment to determine the amount of groundwater that may be withdrawn while allowing groundwater to rebound and stabilize to a level that will halt subsidence.

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

SECTION 13. Section 8801.119, Special District Local Laws
Code, is amended by adding Subsection (c) to read as follows:

(c) The district may adopt different rules for:

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

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

SECTION 14. Subchapter C, Chapter 8801, Special District
Local Laws Code, is amended by amending Section 8801.120 and adding
Sections 8801.121, 8801.122, and 8801.123 to read as follows:

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

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

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

(2) a policy relating to travel expenditures;

(3) a policy relating to district investments;

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

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

(A) budgets to plan and control cost; and

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

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

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

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

SECTION 15. Sections 8801.151, 8801.152, and 8801.155, Special District Local Laws Code, are amended to read as follows:

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

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

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

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

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

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

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

SECTION 16. Subsection (b), Section 8801.157, Special District Local Laws Code, is amended to read as follows:

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

SECTION 17. Section 8801.158, Special District Local Laws Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

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

(e) The board may condition issuance of a permit under this section on the resolution of a prior or continuing violation of this chapter or any rule, permit, or order of the district. The board may require an applicant to pay a civil penalty or settlement amount, or take other necessary action, to resolve a prior or continuing violation.

SECTION 18. Section 8801.161, Special District Local Laws
Code, is amended to read as follows:

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

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

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

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

(c) The amount of a permit fee applicable to a well used for irrigating agricultural crops may not exceed [(1) 70 percent of the lowest amount determined under Subsection (b)][(2) 70 percent of a base amount of one cent for each thousand gallons authorized to be withdrawn, except that the board may adjust the base amount annually to account for increases since 1992 in the most recently published Consumer Price Index for All Urban Consumers, All Items (Houston, Texas, Average), as compiled by the Bureau of Labor Statistics, United States Department of Labor, or [(3) the amount determined in accordance with]
Subsection (d).

(d) The district may establish a fee for administrative acts of the district, including receiving applications for permits or permit amendments. At a hearing, the board shall calculate and express as a percentage the relative contribution to subsidence by wells used for irrigating agricultural crops and wells used for other purposes. The board shall use information prepared by the United States Geological Survey, which is presumed to be correct. The permit fee for wells used for irrigating agricultural crops must be such that the percentage of total permit fee revenue that permit fee revenue from those wells represents equals the percentage that agricultural use contributes to subsidence.

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

SECTION 19. The heading to Section 8801.163, Special District Local Laws Code, is amended to read as follows:

Sec. 8801.163. CONVERSION TO ALTERNATIVE [SURFACE] WATER SUPPLY.

SECTION 20. Subsections (b) and (c), Section 8801.163, Special District Local Laws Code, are amended to read as follows:

(b) The board may issue an order requiring a person to completely or partially discontinue the use of groundwater only if the person is able to;
(1) acquire an alternative water supply composed of surface water needed to replace the water supply covered by the order; or

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

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

SECTION 21. Section 8801.202, Special District Local Laws Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) A person who is adversely affected by a rule, order, or other official action of the district under this chapter, including a person residing in or owning real property in the district whose residence or real property is subsiding, may appeal the action in a district court in any county in the district only after any administrative appeal to the district is finally resolved. An appeal under this section must be filed not later than the 45th day after the date any administrative appeal is finally resolved.

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

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

SECTION 22. Section 8801.204, Special District Local Laws
Code, is amended by amending Subsection (b) and adding Subsection
(e) to read as follows:

(b) On application for injunctive relief and a finding that
a person is violating or threatening to violate this chapter or a
rule, permit, or other order of the district issued or adopted under
this chapter, the district court shall grant injunctive relief as
the facts warrant.

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

SECTION 23. Subsection (a), Section 1, Chapter 1045, Acts
of the 71st Legislature, Regular Session, 1989, is amended to read
as follows:

(a) The purpose of this Act is to provide for the regulation
of the withdrawal of groundwater within the district created by
this Act to prevent subsidence, which contributes to or
precipitates flooding, inundation, or overflow of areas within the
district, including rising waters resulting from storms or
hurricanes.

SECTION 24. Section 2, Chapter 1045, Acts of the 71st
Legislature, Regular Session, 1989, is amended by amending
Subdivision (9) and adding Subdivisions (10) through (15) to read as follows:

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

(10) "Agricultural crop":
(A) means food or fiber commodities that are grown for resale or commercial purposes and that are to be used for food, clothing, or animal feed; and
(B) includes nursery products and florist items that are in the possession of a nursery grower.

(11) "Beneficial use" means any use that is useful or beneficial to the user, including:
(A) an agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational use, or a use for pleasure purposes; or
(B) exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals.

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

(13) "Nursery grower" means a person who grows in any medium more than 50 percent of the nursery products or florist items that the person sells or leases. A person grows a nursery product or florist item if the person cultivates or propagates the product or item by engaging in activities associated with the production or multiplying of stock, including the development of new plants from
cuttings, grafts, plugs, or seedlings. The term does not include a
person who merely holds or maintains a nursery product or florist
item before sale or lease.

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

(15) "Waste" means:

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

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

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

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

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

(F) the escape of groundwater pumped for irrigation as irrigation tailwater onto land that does not belong to the owner of the well unless the occupant of the land receiving the discharge granted permission for the discharge; or

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

SECTION 25. Sections 3 and 4, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, are amended to read as follows:

Sec. 3. CREATION; FINDING OF BENEFIT AND PUBLIC PURPOSE.

(a) Under Article XVI, Section 59, [of the] Texas Constitution, a conservation and reclamation district is created to be known as the Fort Bend Subsidence District. The district is a governmental agency, a political subdivision of the state, and a body politic and corporate.

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

Sec. 4. BOUNDARIES. [(a)] The district includes all of the territory within Fort Bend County.

[(b) An adjoining county may be added to the district on application of the commissioners court of the adjoining county and compliance with the applicable provisions of Sections 55.730-55.744, Water Code.

[(c) The proposition on the ballots for an election to add
an adjoining county to the district shall be printed to permit voting for or against the proposition: "Addition of _______ County to the Fort Bend Subsidence District."

[(d) A county added to the district under this section is subject to the jurisdiction of the board and this Act.]

SECTION 26. Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended by adding Section 4A to read as follows:

Sec. 4A. NONAPPLICABILITY OF OTHER LAW. (a) Other laws governing the administration or operation of conservation and reclamation districts created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, including Chapters 36 and 49, Water Code, do not apply to the district.

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

SECTION 27. Subsections (h), (l), (n), (o), (p), and (r), Section 5, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, are amended to read as follows:

(h) Selection of subsequent directors shall be made each [on the second Monday in] January [at 11 a.m. in the district's main office]. Not later than the 20th day before the date of the board's January meeting, the district shall mail notice [of the meeting] to the persons designated in Subsections (b), (c), and (d)[, and (e)] of this section to choose directors.

(l) Each [At the initial meeting of the board and each] year at the first meeting after new directors take office, the directors
shall select a chairman, a vice-chairman, and a secretary. The
chairman, vice-chairman, and secretary shall serve at the pleasure
of the board and may be removed and replaced by a majority of the
board at any time.

(n) Each director is entitled to receive fees of office of
not more than $150 [$50] a day for each day the director [he] is
engaged in the exercise of the director's [his] duties. The fees of
office may not exceed $9,000 a year. Each director is also entitled
to receive reimbursement for actual expenses reasonably and
necessarily [under this Act and necessary travel and other
expenses] incurred in the exercise of the director's [his] duties
under this Act. To receive fees of office and reimbursement for
expenses, each director must file with the district a verified
statement that shows the number of days spent in the service of the
district and a general description of the duties performed for each
day of service [A member of the board may not receive compensation
and travel and other expenses for more than 120 days in any one
calendar year].

(o) If a vacancy occurs on the board, the person or persons
designated in Subsection (b), (c), or (d)[, or (e)] of this section
to appoint a director for the position that is vacated shall appoint
a director to serve the unexpired term.

(p) Each director shall make the sworn statement and take
the oath of office prescribed by the constitution for public
officers [law for county commissioners] and shall execute a bond in
the amount of $5,000, payable to the district, conditioned on the
faithful performance of the director's [his] duties. The district
(r) The board shall hold one regular meeting each month at a
time set by the board. The board may hold special meetings at the
call of the chairman or on the written request of at least three
directors. A meeting of a committee of the board where less than a
quorum is present is not subject to Chapter 551, Government Code.
The board shall give notice of board meetings as provided by Chapter
551, Government Code. Failure to provide notice of a regular
meeting or an insubstantial defect in notice of any meeting does not
affect the validity of any action taken at the meeting.

SECTION 28. Section 6, Chapter 1045, Acts of the 71st
Legislature, Regular Session, 1989, is amended by amending
Subsections (b), (c), and (d) and adding Subsections (e), (f), and
(g) to read as follows:

(b) Withdrawals of groundwater, including withdrawals of
injected water, covered by this Act are subject to reasonable
rules, regulations, and orders adopted by the board.

(c) In adopting rules, regulations, and orders, the board
shall consider the following factors:

   (1) availability of surface water or alternative water
       supplies;

   (2) economic impact on persons and the community;

   (3) degree and effect of subsidence on the surface of
       the land; and

   (4) differing topographical and geophysical
       characteristics of the land.

   (d) The board has all other powers necessary or convenient
to carry out its responsibilities and achieve the purpose of this Act, whether the powers are specifically authorized by this Act or implied by this Act or other law.

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

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

(g) The board shall adopt the following written policies:

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

(2) a policy relating to travel expenditures;

(3) a policy relating to district investments;

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

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

(A) budgets to plan and control cost; and

(B) uniform reporting requirements based on "Audits of State and Local Governmental Units," published by the American Institute of Certified Public Accountants, and "Governmental Accounting and Financial Reporting Standards," published by the Governmental Accounting Standards Board.
(e) The board shall determine the compensation and terms of office and employment for the general manager. The board may discharge the general manager by a vote of a majority of board members.

SECTION 30. The heading to Section 8, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 8. EMPLOYEES; BENEFITS.

SECTION 31. Section 8, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended by amending Subsections (a) and (b) and adding Subsections (d)-(g) to read as follows:

(a) The general manager shall employ personnel 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 that are considered necessary. The general manager shall determine the compensation to be paid by the district to the employees.

(b) The board may provide for and administer retirement, disability, and death compensation funds for the employees of the district.

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

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

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

SECTION 32. Sections 10 and 11, Chapter 1045, Acts of the
71st Legislature, Regular Session, 1989, are amended to read as
follows:

Sec. 10. MINUTES AND RECORDS OF DISTRICT. The district
shall keep a true and complete account of the board's meetings and
proceedings and shall preserve the board's minutes, contracts,
records, notices, accounts, and receipts in a [fireproof vault or]
safe place. The board's minutes, contracts, records, notices,
accounts, and receipts are the property of the district and are
subject to public inspection.

Sec. 11. 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. If requested by the district, the attorney general shall
represent the district in the district and appellate courts of this
state and in the courts of the United States. The board, in its sole
discretion, may employ attorneys to represent the district in the
district and appellate courts of this state and in the courts of the
United States.

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

(c) The district is not required to give bond for appeal, injunction, or costs in any suit to which it is a party.

(d) If the district prevails in any suit other than a suit in which it voluntarily intervenes, the district may seek and the court shall grant, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the district before the court. The court shall set the amount of the attorney's fees [All courts shall take judicial notice of the creation of the district and of its boundaries].

SECTION 33. Subsection (a), Section 13, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(a) After notice and hearing [under Section 14 of this Act], the board shall adopt and enforce rules and regulations that are designed to expeditiously and effectively accomplish the provisions and purposes of this Act, including rules governing procedure before the board. The board may adopt rules to prevent the waste of water or the degradation of water quality.

SECTION 34. Subsections (b), (c), (d), and (h), Section 14, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, are amended to read as follows:

(b) Not later than the 10th [20th] day before the date set for a hearing, other than a hearing on a permit application, the
district shall deliver or mail notice of the hearing under this section to each county and municipal government within the district and to each person that the board believes has an interest in the subject matter to be dealt with at the hearing.

(c) Not later than the 10th [20th] day before the date set for a hearing, the district shall publish notice of the hearing under this section once in a newspaper of general circulation in each county within the district.

(d) Not later than the 10th [20th] day before the date set for a hearing, the district shall post the notice of the hearing under this section at the county courthouse of each county within the district in the place where notices are usually posted.

(h) The board may use hearing examiners to hear any subject set for the hearing, but the board shall make any final decision on the subject. Procedures for use of hearing examiners shall be provided by rule [in the rules and regulations].

SECTION 35. Subsections (a) and (c) through (f), Section 16, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, are amended to read as follows:

(a) The [Under Section 14 of this Act, the] board shall formulate a plan to control and mitigate subsidence within the district. The plan shall accomplish this purpose by the regulation of groundwater withdrawals to maintain sufficient artesian pressure to control and mitigate subsidence.

(c) When formulating the plan, the board shall compile and consider:

(1) a list of wells in the district that will be
subject to regulation under this Act;

(2) an accurate estimate of groundwater production from all wells [each well] or proposed wells [well] in the district;

(3) an accurate estimate of the amount of groundwater that may be produced from each [well and each] area in the district without causing long-term static water level decline and reduction of artesian pressure that will lead to subsidence within the district;

(4) an accurate estimate of the current and future water needs [of each well owner] in the district;

(5) an accurate estimate of the groundwater production capacity of each well in the district;

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

(7) the purpose for which the water is currently used and for which it is proposed to be used in the future;

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

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

(d) The initial plan shall be formulated not later than 12 months after the effective date of this Act.

(e) Not later than the 60th day after the date the initial plan is formulated, the board shall review and adopt the plan.

(f) Before a [the] plan is adopted, the board shall hold a hearing [under Section 14 of this Act] to consider the proposed
plan.

SECTION 36. Section 17, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 17. WELL REGISTRATION. The board by rule may require the registration of any well in the district [TEMPORARY REGULATION. During the period that the board is formulating and adopting the plan under Section 16 of this Act, the board shall adopt temporary rules and regulations relating to the withdrawal of groundwater that are necessary to control subsidence].

SECTION 37. Subsections (a), (b), and (d), Section 18, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, are amended to read as follows:

(a) The owner of a well located in the district must obtain a permit from the board before:

(1) drilling, equipping, or completing the well;

(2) substantially altering the size of the well or a well pump; or

(3) operating the well [to withdraw groundwater].

(b) A well must have a valid permit if it is operational. An owner or operator commits a violation if the owner or operator does not obtain a permit as required by Subsection (a) of this section. A violation occurs on the first day the drilling, alteration, or operation begins. Each day that a violation continues is a separate violation [Owners of wells operating or being drilled on the effective date of this Act must apply for a permit before January 1, 1990, and may continue to operate the well without a permit until the application for a permit for the well is acted on by the
board].

(d) A permit is not a vested right of the permit holder. A permit may be revoked, suspended, modified, or amended after notice and a [public] hearing [under Section 14 of this Act] whenever reasonably necessary to accomplish the purposes of this Act.

SECTION 38. Subsection (b), Section 19, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(b) Not later than the 10th [20th] day before the date set for the hearing, the board shall notify the applicant by regular mail or by certified mail, return receipt requested, of the date, time, and location of the hearing.

SECTION 39. Section 20, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended by amending Subsections (a), (b), (c), and (e) and adding Subsection (f) to read as follows:

(a) Not later than the 60th [35th] day after the date of the hearing, the board shall decide whether or not to issue a permit and shall formulate the terms of the permit, if issued.

(b) In deciding whether or not to issue a permit and in setting the terms of the permit, the board shall consider:

(1) the purpose of this Act;

(2) the district plan;

(3) the quality, quantity, and availability of surface water or alternative water supplies at prices competitive with those charged by suppliers of surface water within the district;
The board shall grant a permit to an applicant whenever the board finds on sufficient evidence that:
(1) there is no other adequate and available substitute or supplemental source of surface water at prices competitive with those charged by suppliers of surface water within the district; and
(2) compliance with any provision of this Act, or any rule or regulation of the district, 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 public.

(e) The permit must include the following:
(1) the name and address of the permittee;
(2) the location of the well;
(3) the date the permit begins and the date the permit expires;
(4) conditions and restrictions placed on the withdrawal of groundwater; and
(5) adoption of water conservation measures for the purpose of preventing waste of groundwater, including educational programs; and
any other terms and conditions necessary to control and prevent subsidence.

(f) The board may condition issuance of a permit under this section on the resolution of a prior or continuing violation of this chapter or any rule, permit, or order of the district. The board may require an applicant to pay a civil penalty or settlement amount, or take other necessary action, to resolve a prior or continuing violation.

SECTION 40. Section 22, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 22. ANNUAL REPORTS. Before January 31 of each year, each owner of a well who holds a permit under this Act shall submit a report to the board stating the following:

(1) the person's name;
(2) the location of the well;
(3) the total amount of groundwater produced by the well during the immediately preceding 12-month period;
(4) the total amount of groundwater produced by the well during each separate month of the immediately preceding 12-month period;
(5) the purpose for which the groundwater was used; and
(6) the date the permit expires; and

any other information required by the board as necessary for the board to control and prevent subsidence within the district.

SECTION 41. Section 24, Chapter 1045, Acts of the 71st
Legislature, Regular Session, 1989, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Before March 31 of each year, the board shall hold a hearing [under Section 14 of this Act] to determine the effects during the preceding calendar year of groundwater withdrawal on the subsidence of land within the district.

(b) At the hearing, the board shall consider the annual reports submitted under Section 22 of this Act and the investigation made under Section 23 of this Act in addition to information presented [represented] by persons appearing before the board.

(d) The board shall submit the report adopted under Subsection (c) of this section and a copy of the most recent district plan adopted under Section 16 of this Act to the appropriate regional water planning group.

SECTION 42. Section 25, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 25. REGULATION OF SPACING AND PRODUCTION. (a) In order to minimize as far as practicable the drawdown of the water table and reduction of artesian pressure and to control and prevent subsidence, the board may provide for the spacing of wells and regulate the production of groundwater from [the] wells, taking into consideration any relevant factors, including the economic impact on well owners and the resulting effect on subsidence.

(b) Before issuing any rule, regulation, or order under this section, the board shall set a hearing on the proposed rule,
regulation, or order [and issue notice of the hearing. Notice must be given and hearings conducted in the manner provided in Section 14 of this Act].

(c) The district may adopt different rules for:

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

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

(d) The board may issue an order requiring a person to completely or partially discontinue the use of groundwater by:

(1) acquiring an alternative water supply needed to replace the water supply covered by the order; or

(2) participating in a groundwater reduction plan or other agreement approved by the board as achieving compliance with the district's regulatory requirements.

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

SECTION 43. Sections 26, 28, 29, and 31, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, are amended to read as follows:

Sec. 26. REQUIRING WATER-METERING DEVICES. The board may require [adopt orders after notice and hearing under Section 14 of this Act requiring] water-metering devices to be placed on wells in the district and may adopt standards for the accuracy, testing, and
calibration of the devices.

Sec. 28. MONITORING AND SUPERVISIONS OF DISTRICT. (a) The district may use subsidence compaction monitors, water level observation wells, and other materials and equipment to determine the amount of groundwater that may be produced while allowing the rebound and stabilization of groundwater to a level that will halt subsidence.

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

Sec. 29. RESEARCH AND STUDIES. (a) The board may conduct studies and research that it considers necessary to implement this Act. The board may use the services of geologists, hydrologists, licensed professional engineers, licensed professional geoscientists, or other expert personnel to accomplish the purposes of this section.

(b) The district may collect any information that the board determines is necessary to implement this chapter, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir.

Sec. 31. CONTRACTS. The board may enter into contracts with any person to carry out this Act. The district may enter into contracts only in the district's name.

SECTION 44. Section 32, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended by amending
Subsections (a), (b), and (d) and adding Subsection (e) to read as follows:

(a) A person who is adversely affected by a rule, regulation, order, or other official action of the board may appeal to a district court in any county in the district. A person may file an appeal only after any administrative appeal to the district is finally resolved.

(b) For the 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. An appeal under this section must be filed not later than the 45th day after the date any administrative appeal is finally resolved [the rule, regulation, order, or other official action appealed from is promulgated].

(d) In appeals taken under this section, the substantial evidence rule, as provided by Subchapter G, Chapter 2001, Government Code, shall be used to determine the legal propriety of a rule, regulation, order, or other action of the board. The burden of proof is on the petitioner, and the challenged rule, order, or other official action of the district is considered prima facie valid.

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

SECTION 45. Sections 34 through 37, 39, and 40, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, are
amended to read as follows:

Sec. 34. PERMIT FEE. (a) At the time a permit is issued or 
renewed, the board shall collect from the permittee a permit fee, 
established by schedule, based on the term of the permit and the 
maximum amount of groundwater authorized by the board to be 
withdrawn annually from the well. The board may also establish a 
disincentive permit fee to serve as a regulatory tool by creating a 
disincentive to continued overreliance on groundwater.

(b) The fee schedule shall be determined by the board after 
a hearing [under Section 14 of this Act].

(c) The board shall use the funds obtained from permit fees 
to cover the costs of issuing permits and performing other 
regulatory functions under this Act, including making grants, 
loans, or contractual payments to achieve, facilitate, or expedite 
reductions in groundwater pumping or the development or 
distribution of alternative water supplies.

Sec. 35. GRANTS, PURCHASES, GIFTS, LEASES, ETC. (a) On 
behalf of the district, the board may:

(1) purchase, lease, own, convey, and dispose of 
property both inside and outside the district necessary or 
convenient to the exercise of the powers, duties, and functions of 
the board under this Act;

(2) accept grants, gifts, and devises of property;

(3) construct, purchase, lease, or acquire in some 
other manner any material or property necessary to carry out this 
Act; and

(4) accept gifts, grants, loans, or other
distributions of money.

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

Sec. 36. WATER CONSERVATION MEASURES [OWNERSHIP OF GROUNDWATER]. (a) The board may adopt rules requiring the use of water conservation measures to reduce groundwater withdrawals.

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

(c) The district may contract with a local government in the district to provide services needed to meet water conservation requirements established by the commission [The ownership and rights of the owner of land and his lessees and assigns in groundwater are recognized and nothing in this Act shall be construed as depriving or divesting the owner or his lessees and assigns of the ownership or rights, subject to rules and regulations and orders and other official actions of the district].

Sec. 37. OPEN OR UNCOVERED WELLS [SURFACE WATER LAWS NOT APPLICABLE]. (a) The district may require the owner or lessee of land on which an open or uncovered well is located to keep the well closed or capped with a covering capable of sustaining weight of at least 400 pounds when the well is not in actual use.

(b) If the owner or lessee fails or refuses to close or cap the well, any person, firm, or corporation employed by the district...
may enter onto the land and close or cap the well safely and securely [The laws and administrative rules relating to the use of surface water do not apply to groundwater].

Sec. 39. EXCLUSIONS. This Act does not apply to:

1. wells regulated under Chapter 27, Water Code;
2. shallow wells producing water solely to prevent hazardous sand boils, dewater surface construction sites, or relieve hydrostatic uplift on permanent structures and not used to provide water for human consumption, agricultural use, manufacturing or industrial use, or water injection;
3. shallow wells producing water solely for groundwater quality analysis and for monitoring migration of subsurface contaminants or pollution and not used to provide water for human consumption, agricultural use, manufacturing or industrial uses, or water injection;
4. shallow wells producing water solely for recovery of contamination or pollution and not used to provide water for human consumption, agricultural use, manufacturing or industrial use, or water injection; or
5. persons owning only one well within the district if the well has a casing with an inside diameter of five inches or less; and
6. on application for an exemption on a form prescribed by the board, other wells with a casing that has an inside diameter of five inches or less that serve only a single-family dwelling [and have a negligible effect on subsidence within the district].
Sec. 40. DISBURSEMENT OF FUNDS. The district's money may be disbursed by:

(1) check, draft, order, or other instruments, signed by the person or persons authorized to do so by the board's bylaws or by resolution of the board; or

(2) electronic funds transfer.

SECTION 46. The heading to Section 41, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 41. ACCOUNTS AND INDEPENDENT AUDIT; BUDGET.

SECTION 47. Section 41, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) The board shall deliver a copy of the audit to the commissioners court of each county in the district. The board shall keep one copy of the audit at the district office, open to inspection by any interested person during normal office hours.

(c) The fiscal year of the district is the calendar year.

(d) The board shall adopt an annual budget containing a complete financial statement. The board may amend the annual budget.

SECTION 48. The heading to Section 42, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 42. DEPOSITORY BANKS; INVESTMENTS.

SECTION 49. Section 42, Chapter 1045, Acts of the 71st
Legislature, Regular Session, 1989, is amended by amending Subsections (a), (c), and (d) and adding Subsections (h) and (i) to read as follows:

(a) The board shall designate one or more banks within the district to serve as depository for [the funds of the] district money. All [Except as provided by Subsection (b) of this section, all funds of the] district money shall be deposited in a depository bank. This subsection does not limit the power of the board to place a portion of the district's money on time deposit or to purchase certificates of deposit or other authorized investments.

(c) To the extent that money [funds] in a depository bank or a trustee bank is [are] not invested or insured by the Federal Deposit Insurance Corporation, the money [they] shall be secured in the manner provided by Chapter 2257, Government Code [law for the security of county funds].

(d) Before designating a depository bank, the board shall issue a notice stating the time and place the board will meet for that purpose and shall invite [the] banks in the district to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. [The board shall publish the notice once in a newspaper of general circulation in the district or mail a copy of the notice to each bank in the district].

(h) District money may be invested and reinvested in accordance with Chapter 2256, Government Code.

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

SECTION 50. Section 43, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended by amending Subsections (b) and (c) and adding Subsection (e) to read as follows:

(b) At the request of the board [district], or the general manager if authorized by the board, the attorney general shall institute the action. However, the district in its sole discretion may employ attorneys of its choice to institute the action.

(c) The district [board] is not required to post bond or other security with the court [under this section].

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

SECTION 51. Sections 8801.006 and 8801.153, Subsection (d), Section 8801.163, and Sections 8801.164 and 8801.203, Special District Local Laws Code, and Subsections (e), (g), and (k), Section 5, Subsection (c), Section 19, Section 33, Subsection (b), Section 42, and Sections 44 and 45, Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, are repealed.

SECTION 52. 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
S.B. No. 1537

1 effect, this Act takes effect September 1, 2005.

______________________________ ______________________________
President of the SenateAAAAAAAAAAAAASpeaker of the House
I hereby certify that S.B. No. 1537 passed the Senate on
May 3, 2005, by the following vote: Yeas 31, Nays 0.

______________________________ AAAASecretary of the Senate
I hereby certify that S.B. No. 1537 passed the House on
May 13, 2005, by the following vote: Yeas 143, Nays 0, one
present not voting.

______________________________ AAAAChief Clerk of the House

Approved:

______________________________
Date

______________________________
Governor