AN ACT

relating to the creation of the Harrison County and Prairielands Groundwater Conservation Districts; providing authority to impose a tax and issue bonds and granting a limited power of eminent domain.

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

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

CHAPTER 8850. HARRISON COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8850.001. DEFINITIONS. In this chapter:

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

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

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

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

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

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

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

(2) this chapter expires September 1, 2014.

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

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

[Sections 8850.006-8850.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8850.021. APPOINTMENT OF TEMPORARY DIRECTORS.

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

(1) the Harrison County Commissioners Court shall appoint four temporary directors, with one of the temporary directors appointed from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and
(2) the county judge of Harrison County shall appoint one temporary director who resides in the district to represent the district at large.

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

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

(d) Temporary directors serve until the earlier of:

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

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

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

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

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

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

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

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

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

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

Sec. 8850.024. INITIAL DIRECTORS. (a) If creation of the
district is confirmed at an election held under Section 8850.023,
the directors elected shall take office as initial directors of the
district and serve on the board of directors until permanent
directors are elected under Section 8850.025 or 8850.053.
(b) The four initial directors representing the
commissioners precincts shall draw lots to determine which two
shall serve a term expiring June 1 following the first regularly
scheduled election of directors under Section 8850.025, and which
two shall serve a term expiring June 1 following the second
regularly scheduled election of directors. The at-large director
shall serve a term expiring June 1 following the second regularly
scheduled election of directors.
Sec. 8850.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
the uniform election date prescribed by Section 41.001, Election
Code, in May of the first even-numbered year after the year in which
the district is authorized to be created at a confirmation
election, an election shall be held in the district for the election
of two directors to replace the initial directors who, under
Section 8850.024(b), serve a term expiring June 1 following that
election.
Sec. 8850.026. EXPIRATION OF SUBCHAPTER. This subchapter
expires September 1, 2014.
[Sections 8850.027-8850.050 reserved for expansion]
SUBCHAPTER B. BOARD OF DIRECTORS
Sec. 8850.051. DIRECTORS; TERMS. (a) The district is
governed by a board of five directors.
(b) Directors serve staggered four-year terms, with two or
three directors' terms expiring June 1 of each even-numbered year.
(c) A director may serve consecutive terms.

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

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

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

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

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

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

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

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

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

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

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

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

[Sections 8850.056-8850.100 reserved for expansion]
groundwater for any purpose.

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

[Sections 8850.104-8850.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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

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

(1) for which a permit is issued by the district; and
(2) that is not exempt from district regulation.

(b) A production fee may be based on:

(1) the size of column pipe used by the well; or
(2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

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

(1) may not exceed:

(A) 25 cents per acre-foot for water used for agricultural irrigation; or
(B) 4.25 cents per thousand gallons for water used for any other purpose; and

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

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

(e) Fees authorized by this section may be:

(1) assessed annually;
(2) used to pay the cost of district operations; and
(3) used for any other purpose allowed under Chapter
36, Water Code.

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

CHAPTER 8855. PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8855.001. DEFINITIONS. In this chapter:

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

Sec. 8855.002. NATURE OF DISTRICT; FINDINGS. (a) The
district is a groundwater conservation district initially composed
of Ellis, Hill, Johnson, and Somervell Counties created under and
essential to accomplish the purposes of Section 59, Article XVI,
Texas Constitution.

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

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

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

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

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

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

[Sections 8855.006-8855.020 reserved for expansion]

SUBCHAPTER B. INITIAL ORGANIZATION

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

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

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

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

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

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

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

(b) Each successor director shall be appointed and shall
serve in accordance with Subchapter C.
Sec. 8855.051. GOVERNING BODY; TERMS. (a) Except as provided by Subchapter D, the district is governed by a board of eight directors appointed as follows:

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

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

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

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

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

(c) A director may serve multiple consecutive terms.

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

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

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

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

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

[Sections 8855.055-8855.070 reserved for expansion]

SUBCHAPTER D. DISTRICT EXPANSION

Sec. 8855.071. EXPANSION OF DISTRICT BOUNDARIES.

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

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

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

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

(B) appoints two directors who are registered to
vote in Navarro County to the board.
(b) A person appointed under this section must qualify to serve under Section 36.055, Water Code.

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

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

[Sections 8855.072-8855.100 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES

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

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

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

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

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

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

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

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

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

[Sections 8855.107-8855.150 reserved for expansion]

SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

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

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

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

(1) $1 per acre-foot annually for groundwater used for agricultural purposes; or
(2) 30 cents per thousand gallons annually for groundwater used for nonagricultural purposes.

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

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

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

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

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

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

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

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

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

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

(b) Chapter 8855, Special District Local Laws Code, as added by Section 1 of this Act, takes effect September 1, 2009.
S.B. No. 726

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 726 passed the Senate on April 22, 2009, by the following vote: Yeas 30, Nays 0; May 28, 2009, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 30, 2009, House granted request of the Senate; May 31, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 726 passed the House, with amendments, on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting; May 30, 2009, House granted request of the Senate for appointment of Conference Committee; May 31, 2009, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor