

AGRICULTURE CODE

TITLE 7. SOIL AND WATER CONSERVATION
CHAPTER 203. WATER SUPPLY ENHANCEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 203.001. DEFINITIONS. In this chapter:

(1) "Board" means the State Soil and Water Conservation Board.

(2) "District" means a soil and water conservation district created under Chapter 201 of this code.

(3) "District board" means the board of directors of a soil and water conservation district created under Chapter 201 of this code.

(4) "Brush control" means:

(A) the selective control, removal, or reduction of noxious brush such as mesquite, prickly pear, salt cedar, or other phreatophytes that consume water to a degree that is detrimental to water conservation; and

(B) the revegetation of land on which this brush has been controlled.

(5) "Area" means a sub-basin or other portion of land within a project.

(6) "Project" means a watershed or portion of a watershed in which water supply enhancement activities are performed.

(7) "Proposal" means a request submitted by a soil and water conservation district or other political subdivision for state funds to be used in a watershed or portion of a watershed for water supply enhancement activities.

(8) "Water supply enhancement" includes brush control.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(o), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 12(a), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 9, eff. September 1, 2011.

Sec. 203.002. PURPOSE OF PROGRAM. The water supply enhancement program shall be implemented, administered, operated, and financed as provided by this chapter. The purpose of the water supply enhancement program is to increase available surface water and groundwater through:

(1) selective control, removal, or reduction of noxious brush species that are detrimental to water conservation; and

(2) revegetation of land on which noxious brush has been controlled, removed, or reduced.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 10, eff. September 1, 2011.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 203.011. AUTHORITY OF BOARD. The board has jurisdiction over and, with the assistance of local districts, shall administer the water supply enhancement program under this chapter. This chapter does not limit the board's authority to control, remove, or reduce brush under any program the board administers under Chapter 201.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(e), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 11, eff. September 1, 2011.

Sec. 203.012. RULES. The board, after consulting with local districts, shall adopt reasonable rules that are necessary to carry out this chapter.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(e), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 6, eff. Sept. 1, 2003.

Sec. 203.013. AUTHORITY OF DISTRICTS. Each district may carry out the responsibilities provided by Subchapter D as delegated by the board.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.
Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(e), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 6, eff. Sept. 1, 2003.

Sec. 203.014. PERSONNEL. The board may employ or contract with any person necessary to assist the board or a district to carry out this chapter.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Sec. 203.015. EXPENDITURES. In addition to any other expenditures authorized by this subchapter, the board may make expenditures provided by the General Appropriations Act.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Sec. 203.016. CONSULTATION. The State Soil and Water Conservation Board shall consult with:

(1) the Texas Water Development Board in regard to the effects of the water supply enhancement program on water quantity;

(2) the department in regard to the effects of the water supply enhancement program on agriculture; and

(3) the Parks and Wildlife Department in regard to the effects of the water supply enhancement program on fish and wildlife.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(f), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. [1808](#)), Sec. 12, eff. September 1, 2011.

SUBCHAPTER C. GENERAL POWERS AND DUTIES OF BOARD

Sec. 203.051. STATE PLAN. (a) The board shall prepare and adopt a state water supply enhancement plan that includes a comprehensive strategy for managing brush in all areas of the state where brush is contributing to a substantial water conservation problem.

(b) The plan adopted under this section must list the goals the board establishes under Section 201.029 for the water supply enhancement program. These goals must include:

(1) a goal describing the intended use of a water supply enhanced or conserved by the program, such as agricultural purposes or drinking water purposes; and

(2) a goal describing the populations that the water supply enhancement program will target.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(g), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 13, eff. September 1, 2011.

Sec. 203.052. NOTICE AND HEARING. (a) Before the board adopts the plan under Section 203.051 of this code, the board shall call and hold a hearing to consider a proposed plan.

(b) Not less than 30 days before the date the hearing is to be held, the board shall mail written notice of the hearing to each district in the state. The notice must:

(1) include the date and place for holding the hearing;

(2) state the purpose for holding the hearing; and

(3) include instructions for each district to submit written comments on the proposed plan.

(c) At the hearing, representatives of a district and any other person may appear and present testimony including information and suggestions for any changes in the proposed plan. The board shall:

(1) enter any written comments received on the

proposed plan into the record of the hearing; and

(2) consider all written comments and testimony before taking final action on the proposed plan.

(d) After the conclusion of the hearing, the board shall consider the testimony, including the information and suggestions made at the hearing and in written comments, and after making any changes in the proposed plan that it finds necessary, the board shall adopt the plan.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(h), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 2.004, eff. September 1, 2011.

Sec. 203.053. CRITERIA FOR ACCEPTING AND PRIORITIZING WATER SUPPLY ENHANCEMENT PROJECTS. (a) The board shall adopt rules establishing:

(1) criteria for accepting project proposals; and

(2) a system to prioritize projects for each funding cycle, giving priority to projects that balance the most critical water conservation need and the highest projected water yield.

(b) The criteria required by Subsection (a)(1) must include a requirement that each proposal state the projected water yield of the proposed project, as modeled by a person with expertise in hydrology, water resources, or another technical area pertinent to the evaluation of water supply.

(c) The board shall consult with stakeholders, including hydrologists and representatives from soil and water conservation districts, to develop by rule standard methods of reporting the projected water yield under Subsection (b).

(d) In prioritizing projects under Subsection (a)(2), the board shall consider:

(1) the need for conservation of water resources within the territory of the project, based on the state water plan adopted under Section [16.051](#), Water Code;

(2) projected water yield of areas of the project,

based on soil, slope, land use, types and distribution of trees, brush, and other vegetative matter, and proximity of trees, brush, and other vegetative matter to rivers, streams, and channels;

(3) any method the project may use to control brush;

(4) cost-sharing contract rates within the territory of the project;

(5) the location and size of the project;

(6) the budget of the project and any associated requests for grant funds submitted under this title;

(7) the implementation schedule of the project; and

(8) the administrative capacities of the board and the entity that will manage the project.

(e) In prioritizing projects under Subsection (a)(2), the board may consider:

(1) scientific research on the effects of brush removal on water supply; and

(2) any other criteria that the board considers relevant to assure that the water supply enhancement program can be most effectively, efficiently, and economically implemented.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(i), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 8, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. [1808](#)), Sec. 14, eff. September 1, 2011.

Sec. 203.054. AMENDING PLAN. At least every two years the board shall review and may amend the plan to take into consideration changed conditions. Amendments to the plan shall be made in the manner provided by this chapter for adopting the original plan.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Sec. 203.055. APPROVED METHODS FOR BRUSH CONTROL. (a) The board shall study and must approve all methods used to control brush under this chapter considering the overall impact of the project.

(b) The board may approve a method for use under the cost-sharing program provided by Subchapter E if the board finds

that the proposed method:

(1) has proven to be an effective and efficient method for controlling brush;

(2) is cost efficient;

(3) will have a beneficial impact on the development of water sources and wildlife habitat;

(4) will maintain topsoil to prevent erosion or silting of any river or stream; and

(5) will allow the revegetation of the area after the brush is removed with plants that are beneficial to stream flows, groundwater levels, and livestock and wildlife.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(j), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 8, eff. Sept. 1, 2003.

Sec. 203.056. REPORT. (a) Before January 31 of each year, the board shall submit to the governor, the speaker of the house, and the lieutenant governor a report of the activities of the water supply enhancement program during the immediately preceding calendar year, including a comprehensive analysis of the program's effectiveness and a report on program participant compliance with plans created under Section [203.162](#).

(b) The board may make copies of this report available on request to any person and may charge a fee for each report that will allow the board to recover its costs for printing and distribution.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. [1808](#)), Sec. 15, eff. September 1, 2011.

Sec. 203.057. FEASIBILITY STUDIES. (a) The board shall establish a process for providing to persons submitting project proposals assistance in locating a person with expertise in hydrology, water resources, or another technical area pertinent to the evaluation of water supply to conduct a feasibility study for a project using a water yield model as described by Section [203.053\(b\)](#).

(b) The board may:

(1) dedicate a portion of the money appropriated to the board that it considers appropriate to fund part or all of a feasibility study under this section; and

(2) establish procedures to distribute the money under Subdivision (1).

(c) To receive funding for a feasibility study under Subsection (b), a person must submit to the board an application for funding that includes a statement of the project's anticipated impact on water resources.

Added by Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 16, eff. September 1, 2011.

SUBCHAPTER D. POWERS AND DUTIES OF DISTRICTS

Sec. 203.101. GENERAL AUTHORITY. Each district may administer the aspects of the water supply enhancement program within the jurisdiction of that district.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(k), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 8, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 17, eff. September 1, 2011.

Sec. 203.102. PROVIDE INFORMATION RELATING TO PROGRAM. The board shall prepare and distribute information to each district relating generally to the water supply enhancement program and concerning the procedures for preparing, filing, and obtaining approval of an application for cost sharing under Subchapter E.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 18, eff. September 1, 2011.

Sec. 203.103. ACCEPTANCE AND COMMENT ON APPLICATION. (a) Each district may accept for transmission to the board applications

for cost sharing under Subchapter E of this chapter and may examine and assist the applicant in assembling the application in proper form before the application is submitted to the board.

(b) Before a district submits an application to the board, it shall examine the application to assure that it complies with rules of the board and that it includes all information and exhibits necessary for the board to pass on the application.

(c) At the time that the district examines the application, it shall prepare comments and recommendations relating to the application and the district board may provide comments and recommendations before they are submitted to the board.

(d) After reviewing the application, the district board shall submit to the board the application and the comments and recommendations.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Sec. 203.104. SUPERVISION OF COST-SHARING CONTRACTS.

(a) Each district on behalf of the board may inspect and supervise cost-sharing contracts within its jurisdiction in which state money is provided under Subchapter E.

(b) Each district board exercising the duties under Subsection (a) of this section shall periodically report to the board relating to this inspection and supervision in the manner provided by board rules.

(c) The board may direct a district to manage any problem that arises under a cost-sharing contract for water supply enhancement in that district and to report to the board.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 19, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 20, eff. September 1, 2011.

SUBCHAPTER E. COST SHARING FOR WATER SUPPLY ENHANCEMENT

Sec. 203.151. CREATION OF COST-SHARING PROGRAM. As part of

the water supply enhancement program, a cost-sharing program is created to be administered under this chapter and rules adopted by the board.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 22, eff. September 1, 2011.

Sec. 203.154. LIMIT ON COST-SHARING PARTICIPATION.

(a) Not more than 70 percent of the total cost of a single cost-sharing contract may be made available as the state's share in cost sharing.

(b) A person is not eligible to participate in or to receive money from the state water supply enhancement program if the person is simultaneously receiving any cost-share money for brush control on the same acreage from a federal government program.

(c) The board may grant an exception to Subsection (b) if the board finds that joint participation of the state water supply enhancement program and any federal brush control program will:

(1) enhance the efficiency and effectiveness of the water supply enhancement program;

(2) lessen the state's financial commitment to the person receiving money from the water supply enhancement program through a cost-sharing contract; and

(3) not exceed 80 percent of the total cost of the cost-sharing contract.

(d) A political subdivision of this state is eligible for cost sharing under the water supply enhancement program, provided that the state's share may not exceed 50 percent of the total cost of a single cost-sharing contract.

(e) Notwithstanding any other provision of this section, 100 percent of the total cost of a single cost-sharing contract on public lands may be made available as the state's share in cost sharing.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 1999, 76th Leg., ch. 1386, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 200, Sec. 13(1), eff. Sept. 1,

2003; Acts 2003, 78th Leg., ch. 983, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 23, eff. September 1, 2011.

Sec. 203.156. APPLICATION FOR COST SHARING. A person, including a political subdivision of this state, that desires to participate with the state in the water supply enhancement program and to obtain cost-sharing participation by the state shall file an application for a cost-sharing contract with the district board in the district in which the land on which the contract is to be performed is located. The application must be in the form provided by board rules.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(m), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 24, eff. September 1, 2011.

Sec. 203.157. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application for cost sharing, the board shall consider:

- (1) the location of the land that is subject to the cost-sharing contract;
- (2) the method of control the applicant will use;
- (3) the plans for revegetation;
- (4) the total cost of the contract;
- (5) the amount of land to be included in the contract;
- (6) whether the applicant is financially able to provide the applicant's share of the money for the project;
- (7) the cost-share percentage, if an applicant agrees to a higher degree of financial commitment;
- (8) any comments and recommendations submitted by a local district, the department, the Texas Water Development Board, or the Parks and Wildlife Department; and
- (9) any other pertinent information considered

necessary by the board.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(m), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 25, eff. September 1, 2011.

Sec. 203.158. APPROVAL OF APPLICATION. The board may approve an application for cost sharing if, after considering the factors listed in Section 203.157 and any other relevant factors, the board finds:

(1) the owner of the land fully agrees to cooperate in the cost-sharing contract; and

(2) the method of eradication is a method approved by the board under Section 203.055.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 2003, 78th Leg., ch. 200, Sec. 13(m), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 983, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 26, eff. September 1, 2011.

Sec. 203.160. CONTRACT FOR COST SHARING. (a) On approval of an application for cost sharing by the board, the board or the governing board of the designated district shall negotiate cost-sharing contracts with the successful applicants in the project territory.

(b) The board or designated district board shall negotiate a contract with the successful applicant subject to:

(1) the conditions established by the board in approving the application;

(2) any specified instructions provided by the board; and

(3) board rules.

(c) On completion of the negotiations by the district board, it shall submit the proposed contract to the board for approval.

(d) The board shall examine the contract and if the board finds that the contract meets all the conditions of the board's resolution, instructions, and rules, it shall approve the contract and provide to the individual on faithful performance of the terms of the contract the money that constitutes the state's share of the project.

(e) The board may develop guidelines to allow partial payment of the state's share of a cost-sharing contract as certain portions or percentages of contracted work are completed, but state money may not be provided in advance for work remaining to be done.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 27, eff. September 1, 2011.

Sec. 203.161. ADMINISTRATION OF EXPENDITURES. The district board may administer expenditure of the state's share of the money required by a cost-sharing contract and shall report periodically to the board on the expenditure of those funds in the manner required by the board.

Added by Acts 1985, 69th Leg., ch. 655, Sec. 1, eff. Aug. 26, 1985.

Sec. 203.162. WATER SUPPLY ENHANCEMENT PLANS. (a) The board shall consult with each successful applicant for a cost-sharing contract to create a 10-year plan for the land that is subject to the contract to enhance the water supply in the area.

(b) A plan created under this section must include:

(1) provisions for brush control or other water supply enhancement activities;

(2) a provision for follow-up brush control;

(3) a provision requiring the landowner to limit the average brush coverage on the land that is subject to the contract to not more than five percent throughout the course of the 10-year plan; and

(4) periodic dates throughout the course of the 10-year plan on which the board will inspect the status of brush control on the land that is subject to the contract.

(c) A plan created under this section may not condition implementation of the provision for follow-up brush control on receipt of additional funding for the follow-up brush control from a state source other than the original cost-sharing contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. [1808](#)), Sec. 28, eff. September 1, 2011.