

SPECIAL DISTRICT LOCAL LAWS CODE
TITLE 6. WATER AND WASTEWATER
SUBTITLE H. DISTRICTS GOVERNING GROUNDWATER

CHAPTER 8813. NORTH FORT BEND WATER AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8813.001. DEFINITIONS. In this chapter:

(1) "Authority" means the North Fort Bend Water Authority.

(2) "Board" means the board of directors of the authority.

(3) "Commission" means the Texas Commission on Environmental Quality or its successor.

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

(5) "District" means any district created under Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, regardless of the manner of creation, other than:

(A) a navigation district or port authority;

(B) a district governed by Chapter 36, Water Code; or

(C) a district that does not have the legal authority to supply water.

(6) "Groundwater reduction plan" means a plan adopted or implemented to supply water, reduce reliance on groundwater, regulate groundwater pumping and usage, or require and allocate water usage among persons in order to comply with or exceed requirements imposed by the Fort Bend Subsidence District or the Harris-Galveston Subsidence District, as applicable, including any applicable groundwater reduction requirements.

(7) "Local government" means a municipality, county, district, or other political subdivision of this state or a combination of two or more of those entities.

(8) "Person" includes an individual, corporation,

organization, government or governmental subdivision or agency, district, local government, business trust, estate, trust, partnership, association, and any other legal entity.

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

(10) "System" means a network of pipelines, conduits, valves, canals, pumping stations, force mains, treatment plants, and any other construction, device, or related appurtenance used to treat or transport water.

(11) "Water" includes:

(A) groundwater, percolating or otherwise;

(B) any surface water, natural or artificial, navigable or nonnavigable; and

(C) industrial and municipal wastewater.

(12) "Well" includes a facility, device, or method used to withdraw groundwater from a groundwater source within the boundaries of the authority.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 18.006, eff. September 1, 2013.

Sec. 8813.002. NATURE OF AUTHORITY. The authority is a regional water authority in Fort Bend and Harris Counties created under and essential to accomplish the purposes of Section [59](#), Article XVI, Texas Constitution, including the acquisition and provision of surface water and groundwater for residential, commercial, industrial, agricultural, and other uses, the reduction of groundwater withdrawals, the conservation, preservation, protection, and recharge of groundwater and of groundwater reservoirs or their subdivisions, the prevention of waste of groundwater, the control of subsidence caused by the withdrawal of water from groundwater reservoirs or their subdivisions, and other public purposes stated in this chapter. The authority is a political subdivision of this state.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff.

June 17, 2005.

Sec. 8813.003. CONFIRMATION ELECTION NOT REQUIRED. An election to confirm the creation of the authority is not required. Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Sec. 8813.004. INITIAL AUTHORITY TERRITORY. (a) The authority is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the authority;

(2) the right of the authority to issue any type of bond or note for the purposes for which the authority is created or to pay the principal of and interest on a bond or note;

(3) the right of the authority to impose or collect a fee, user fee, rate, charge, or special assessment; or

(4) the legality or operation of the authority.

(c) All of the territory of a local government created after the effective date of the Act creating this chapter that encompasses any territory within the boundaries of the authority, immediately on the creation and without any action required of the authority, is subject to all of the rights, powers, privileges, and rules of the authority to the same extent as the territory was before the local government was created.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Sec. 8813.005. EXCLUSION OF CERTAIN TERRITORY. (a) A district or municipality that, on the effective date of the Act creating this chapter, is located, wholly or partly, within the territory described by Section 2(a) or (b) of the Act creating this chapter may petition for exclusion of all of its territory from the

authority's boundaries by a petition signed by a majority of the members of the governing body of the district or municipality.

(b) The board shall:

(1) not later than the 120th day after the effective date of the Act creating this chapter, grant the petition and order the territory excluded if the petition:

(A) includes an accurate legal description of the boundaries of the territory to be excluded; and

(B) is filed with the authority not later than the 60th day after the effective date of the Act creating this chapter; and

(2) if the board grants the petition, file for recording in the office of the county clerk for the applicable county or counties a copy of the order and a description of the authority's boundaries as they exist after the exclusion of the territory.

(c) If a district or municipality is excluded from the authority's boundaries under this section, the authority is not required to:

(1) provide water or any other service to the district or municipality; or

(2) include the district or municipality in any groundwater reduction plan adopted or implemented by the authority.

(d) If, not later than the 60th day after the effective date of the Act creating this chapter, a district or municipality files a petition for exclusion under this section, the authority may not impose fees, user fees, rates, charges, or special assessments on the district or municipality after the petition is filed with the authority unless the district or municipality is annexed by the authority under Section [8813.006](#).

(e) If a district or municipality excluded from the authority's boundaries under this section petitions the authority to be annexed under Section [8813.006](#), the authority may annex the district or municipality. The authority may, as a condition of annexation, require terms and conditions the board considers appropriate. The authority may require the district or municipality to pay the authority the fees, user fees, charges, and

special assessments, with interest, that, as determined by the authority, the district or municipality would have been charged by the authority if the district or municipality had not been excluded from the authority under this section.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Sec. 8813.006. ANNEXATION. (a) Except to the extent the authority agrees in writing, a municipality's annexation of territory within the authority does not affect:

(1) the authority's powers inside or outside the annexed territory;

(2) the authority's boundaries or contracts; or

(3) the authority's ability to assess fees, user fees, rates, charges, or special assessments inside or outside the territory annexed by the municipality.

(b) Territory may be annexed to the authority, regardless of whether the territory is contiguous to the authority, as provided by Chapter [49](#), Water Code.

(c) In addition to the authority granted by Subsection (b), regardless of whether the territory is contiguous to the authority, the authority may annex some or all of the territory located within a district or municipality if the district or municipality files with the authority a petition requesting the annexation signed by a majority of the members of the governing body of the district or municipality. The petition must include an accurate legal description of the boundaries of the territory to be included. If the authority has bonds, notes, or other obligations outstanding, the authority shall require the petitioning district or municipality to be obligated to pay its share of the principal of and interest on the outstanding bonds, notes, or other obligations, and related costs. The board may grant the petition and order the territory described by the petition annexed to the authority if it is feasible, practicable, and to the advantage of the authority.

(d) Any territory that a district located within the authority annexes becomes territory of the authority on the effective date of the annexation without any action required of the

authority. The authority by rule may require all districts located within the authority to send to the authority written notice of the effective date of an annexation and require the districts to send to the authority copies of any necessary documents describing the annexed land and describing the districts' boundaries as they exist after inclusion of the annexed land.

(e) The annexation to the authority of territory under this section does not affect the validity of the authority's bonds issued before or after the annexation.

(f) A municipality that annexes territory of the authority for limited purposes under Subchapter F, Chapter 43, Local Government Code, does not have the right to:

(1) receive notices from the authority under Section 8813.103(c);

(2) participate in the appointment of directors under Subchapter B; or

(3) receive information about or have the opportunity to fund its share of capital costs in the manner provided by the authority under Section 8813.104.

(g) Notwithstanding any provision of this section or other law, no territory may be annexed into or added to the authority that, at the time of annexation or addition, is located within the boundaries of both:

(1) another regional water authority created under Section 59, Article XVI, Texas Constitution; and

(2) a subsidence district.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 621 (S.B. 1051), Sec. 1, eff. June 16, 2015.

Sec. 8813.007. APPLICABILITY OF OTHER LAW. (a) Except as otherwise provided by this chapter, Chapter 49, Water Code, applies to the authority.

(b) This chapter does not prevail over or preempt a provision of Chapter 36, Water Code, or Chapter 8801 or 8834 of this

code that is being implemented by the Harris-Galveston Subsidence District or Fort Bend Subsidence District, as applicable.

(c) Chapter 36, Water Code, does not apply to the authority. Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 875 (S.B. 2514), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 18.007, eff. September 1, 2013.

Sec. 8813.008. FINDING OF BENEFIT. All the land, property, and persons included within the boundaries of the authority will be directly benefited by the works, projects, improvements, and services to be provided by the authority under powers conferred by Section 59, Article XVI, Texas Constitution, and this chapter. The authority is created to serve a public use and benefit. The creation of the authority will serve to promote the health, safety, and general welfare of persons within the authority and the general public. Any fees, user fees, rates, charges, or special assessments imposed by the authority under this chapter are necessary to pay for the costs of accomplishing the purposes of the authority as set forth in Section 59, Article XVI, Texas Constitution, and this chapter, including:

- (1) the reduction of groundwater withdrawals;
- (2) the facilitation of compliance with the requirements of the Fort Bend Subsidence District or the Harris-Galveston Subsidence District, as applicable; and
- (3) the provision of services, facilities, and systems.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 18.008, eff. September 1, 2013.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8813.051. DIRECTORS; TERMS. (a) The authority is governed by a board of seven directors.

(b) The directors serve staggered four-year terms that expire May 15 of even-numbered years.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.052. ELIGIBILITY TO SERVE AS DIRECTOR. (a) To be eligible to serve as a director of the authority or to be listed on a ballot as a candidate for director of the authority representing a director precinct, an individual must:

- (1) be at least 18 years of age;
- (2) be a resident of the authority; and
- (3) have served as a director of one or more districts for a total of at least four years.

(b) Notwithstanding Subsection (a), to serve as a director representing, or to be listed on a ballot as a candidate for director representing, a director precinct that includes any part of the City of Fulshear, an individual must:

- (1) meet the qualifications provided by Subsections (a)(1) and (2); and
- (2) have served as:
 - (A) the mayor or a member of the city council of the City of Fulshear for any period; or
 - (B) a director of one or more districts for a total of at least four years.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.053. DISQUALIFICATION OF DIRECTORS. The common law doctrine of incompatibility does not disqualify an official or employee of a public entity from serving as a director of the authority. A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that public entity.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.054. CONFLICTS OF INTEREST. Chapter 171, Local Government Code, governs conflicts of interest of board members. Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.055. SINGLE-MEMBER DIRECTOR PRECINCTS. (a) The authority is divided into seven single-member director precincts, as described by Section 3 of the Act creating this chapter.

(b) The board may redraw the single-member director precincts in a manner that is reasonable and equitable:

(1) after any change in the boundaries of the authority; or

(2) by a resolution redrawing the director precincts adopted by a two-thirds majority of the board based on changed circumstances.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.056. METHOD OF APPOINTMENT OF DIRECTORS. (a) The governing bodies of the districts and municipalities located within each director precinct jointly shall appoint one director to represent the precinct by a vote conducted as provided by this section.

(b) If a district or municipality is located within two or more director precincts, the district or municipality is considered, for purposes of this section, to be located only within the director precinct in which the greatest amount of territory of the district or municipality is located.

(c) For the appointment of a director for a director precinct, the board shall determine the number of votes each district or municipality may cast. The number of votes for a governing body of a district or municipality within the precinct is equal to the number computed by dividing the total number of units of water, as determined by the board, used within the precinct by

the district or municipality during the calendar year preceding the year in which the director is selected by the total number of units of water used within the precinct by all districts and municipalities in the precinct, multiplying that quotient by 100, and rounding that result to the nearest one-tenth. The board shall provide the presiding officer of each governing body of a district or municipality within each director precinct written notice of the number of votes computed for that governing body to cast.

(d) For purposes of Subsection (c), the board shall determine the amount of water usage of all districts and municipalities within each director precinct.

(e) In the appropriate even-numbered year, the governing body of each district or municipality in a director precinct by resolution may nominate one candidate for the position of director for that director precinct. Each district or municipality shall submit the name of its candidate, if any, to the presiding officer of the authority by February 15 of that year. If by February 15 of that year only one candidate's name is submitted for the position of director for a director precinct, the board may declare the unopposed candidate elected and may cancel the director appointment procedures generally required by this section for that position. If more than one candidate's name is submitted for the position of director for a director precinct, before March 15 of that year the board shall prepare, for the director precinct or precincts from which a director is being appointed, a ballot listing all of the candidates for that director precinct and shall provide a copy of the appropriate ballot to the presiding officer of the governing body of each district or municipality located within the director precinct from which a director is being appointed.

(f) An individual may not be listed as a candidate on the ballot for more than one director position. If a candidate is nominated for more than one director position, the candidate must choose to be on the ballot for only one director position.

(g) The governing body of each district or municipality shall determine its votes for director by resolution and submit them to the presiding officer of the authority before May 1 of the appropriate even-numbered year. In casting its votes for

director, the governing body of each district or municipality may vote for only one candidate on the ballot for the director precinct in which the district or municipality is located. For each director precinct from which a director is being appointed, the board shall count the votes, declare elected the candidate who received the greatest number of votes from districts and municipalities located within that director precinct, and submit the results before May 15 of that year to the governing body of each district or municipality within that director precinct.

(h) The board may adopt rules regarding:

(1) the manner and timing of determinations and calculations required by this section;

(2) the reporting of water usage to the authority by districts and municipalities; and

(3) the conduct and process of the appointment of directors.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Sec. 8813.057. VACANCY IN OFFICE OF DIRECTOR. A vacancy in the office of director shall be filled by appointment by the governing bodies of the districts and municipalities that are located within the director precinct for which the vacancy occurred. The appointment process shall follow the procedures of Section [8813.056](#). The board may establish dates different from those specified by Sections [8813.056](#)(e) and (g), but the date for the board's submission of the voting results to each district and municipality may not be later than the 120th day after the date the vacancy occurs.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Sec. 8813.058. MEETINGS AND ACTIONS OF BOARD. (a) The board may meet as many times each year as the board considers appropriate.

(b) Directors of the authority are public officials and are entitled to governmental immunity for their actions in their

capacity as directors and officers of the authority.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.059. GENERAL MANAGER. (a) The board may employ a general manager of the authority or contract with a person to perform the duties of a general manager. The board may delegate to the general manager full authority to manage and operate the affairs of the authority subject only to orders of the board.

(b) The board may delegate to the general manager the authority to employ all persons necessary for the proper handling of the business and operation of the authority and to determine the compensation to be paid to all employees, other than the general manager.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8813.101. GENERAL POWERS AND DUTIES. (a) The authority may:

(1) provide for the conservation, preservation, protection, recharge, and prevention of waste of groundwater, and for the reduction of groundwater withdrawals as necessary to develop, implement, or enforce a groundwater reduction plan, in a manner consistent with the purposes of Section 59, Article XVI, Texas Constitution, and facilitate compliance with Fort Bend Subsidence District or Harris-Galveston Subsidence District, as applicable, rules, orders, regulations, or requirements;

(2) acquire or develop surface water and groundwater supplies from sources inside or outside the boundaries of the authority, conserve, store, transport, treat, purify, distribute, sell, and deliver water to or among persons inside and outside the boundaries of the authority, and allocate water among persons participating in the authority's groundwater reduction plan whether they are located inside or outside the authority's boundaries;

(3) enter into contracts with persons inside or outside the authority on terms and conditions the board considers desirable, fair, and advantageous for the performance of its rights, powers, and authority under this chapter;

(4) coordinate water services provided inside, outside, or into the authority;

(5) provide wholesale and retail water services to any users or customers within the authority's boundaries without being required to execute contracts with those users or customers;

(6) adopt policies establishing whether, when, and the manner in which the authority uses requests for proposals in obtaining services, including professional services;

(7) determine whether to adopt administrative policies in addition to those required by Section 49.199, Water Code; and

(8) administer and enforce this chapter.

(b) Sections 49.451-49.455, Water Code, do not apply to the authority.

(c) Notwithstanding Subsection (a)(5), the authority may not provide retail water service to a retail user within the authority's boundaries that is located within the boundaries of a district or municipality on the date the authority awards a contract for the construction or executes a contract for the acquisition of water facilities to serve that retail user, unless:

(1) the district or municipality consents in writing to the authority's provision of retail water service; or

(2) the retail user owns or operates a well.

(d) If a retail user that does not own or operate a well is added to the boundaries of a district or municipality after the date the authority awards a contract for the construction or executes a contract for the acquisition of water facilities to serve that retail user, the authority may provide retail service to that retail user without the written consent of the district or municipality.

(e) The authority is not a special water authority for purposes of Chapter 49, Water Code.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff.

June 17, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 18.009, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 621 (S.B. [1051](#)), Sec. 2, eff. June 16, 2015.

Sec. 8813.102. AUTHORITY RULES. The authority may adopt and enforce rules reasonably required to implement this chapter, including rules governing procedures before the board and rules regarding implementation, enforcement, and any other matters related to the authority's water supply or groundwater reduction plan.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Sec. 8813.103. FEES, USER FEES, RATES, AND CHARGES. (a) The authority may establish fees, user fees, rates, and charges and classifications of payers of fees and rates as necessary to enable the authority to fulfill the authority's purposes and regulatory functions provided by this chapter. The authority may impose fees, user fees, rates, and charges on any person within the authority.

(b) The authority may charge the owner of a well located within the authority's boundaries a fee or user fee according to the amount of water pumped from the well. If ownership of a well changes, both the prior and subsequent well owners are liable to the authority, jointly and severally, for all fees and user fees imposed by the authority under this subsection, and any related penalties and interest, for water pumped from that well before the change in well ownership.

(c) The board shall make reasonable efforts to send districts and municipalities written notice of the date, time, and location of the meeting at which the board intends to adopt a proposed charge under Subsection (b) and the amount of the proposed charge. The board's failure to comply with this subsection does not invalidate a charge adopted by the board under Subsection (b).

(d) For wells located in Harris County or Fort Bend County,

the board shall exempt from the charge under Subsection (b) classes of wells that are not subject to any groundwater reduction requirement imposed by the Harris-Galveston Subsidence District or the Fort Bend Subsidence District, as applicable. If any of those classes of wells become subject to a groundwater reduction requirement imposed by the applicable subsidence district, the authority may impose the charge under Subsection (b) on those classes. The board by rule may exempt any other classes of wells from the charge under Subsection (b). The board may not apply the charge under Subsection (b) to a well:

- (1) with a casing diameter of less than five inches that serves only a single-family dwelling; or

- (2) regulated under Chapter [27](#), Water Code.

(e) For purposes of Subsection (d), a well is subject to a groundwater reduction requirement if the Harris-Galveston Subsidence District or the Fort Bend Subsidence District, as applicable, has adopted or adopts a requirement or rule that groundwater withdrawals from the well, or from the well and other wells collectively, be reduced, including a groundwater reduction that is not required until a future date.

(e-1) Notwithstanding Subsection (d), the authority may impose a charge under Subsection (b) on a well or class of wells located in Harris or Fort Bend County that, on or after February 1, 2013:

- (1) ceases to be subject to a groundwater reduction requirement imposed by the Harris-Galveston Subsidence District or the Fort Bend Subsidence District, as applicable; or

- (2) is no longer subject to the regulatory provisions, permitting requirements, or jurisdiction of the Harris-Galveston Subsidence District or the Fort Bend Subsidence District, as applicable.

(f) The authority may establish fees, user fees, rates, and charges that are sufficient to:

- (1) achieve water conservation;

- (2) prevent waste of water;

- (3) serve as a disincentive to pumping groundwater;

- (4) develop, implement, or enforce a groundwater

reduction plan;

(5) accomplish the purposes of this chapter, including making available alternative water supplies;

(6) enable the authority to meet operation and maintenance expenses;

(7) pay the principal of and interest on notes, bonds, and other obligations issued in connection with the exercise of the authority's general powers and duties; and

(8) satisfy all rate covenants relating to the issuance of notes, bonds, and other obligations.

(g) The authority may charge rates established by the authority for water purchased from the authority.

(h) The authority may impose fees, user fees, or charges for the importation of water into the authority's boundaries from a source located outside the authority's boundaries.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 89 (S.B. [595](#)), Sec. 1, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 18.010, eff. September 1, 2013.

Sec. 8813.104. PURCHASE OF WATER FROM ANOTHER ENTITY. (a) If the authority purchases water from another entity for resale to local governments, the authority shall use its best efforts in negotiating with the entity to determine the amount of capital costs included in any rates or charges paid by the authority. The authority shall determine the amount of expected capital costs of its own system.

(b) The authority may provide each district or municipality within its boundaries information regarding the share of the capital costs to be paid by the district or municipality, as determined by the authority, and may provide each district or municipality the opportunity, in a manner and by a procedure determined by the authority, to fund its share of the capital costs with proceeds from the sale of bonds or fees and charges collected

by the districts or municipalities. A district or municipality may use any lawful source of revenue, including bond funds, to pay any sums due to the authority.

(c) The authority may adopt a procedure by which a district or municipality may receive a credit from the authority. The board may adopt any other procedure necessary to accomplish the goals of this section.

(d) In complying with this section, the authority may use any reasonable basis to calculate from time to time the share of the capital costs of a district or municipality. The authority may calculate the shares of the capital costs based on the amount of water used within the authority by the district or municipality during the calendar year preceding the year in which the calculation is made.

(e) This section or any failure to comply with this section does not limit or impede the authority's ability to issue bonds or notes or invalidate any fees, user fees, charges, rates, or special assessments imposed by the authority.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 621 (S.B. [1051](#)), Sec. 3, eff. June 16, 2015.

Sec. 8813.105. ASSESSMENTS. (a) The board may undertake improvement projects and services that confer a special benefit on all or a definable part of the authority. The board may impose special assessments on property in that area, including property of a local government, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and services. The board may provide improvements and services to an area outside the boundaries of the authority if the board determines that there is a benefit to the authority. The authority may finance with special assessments any improvement project or service authorized by this chapter or any other applicable law.

(b) Services or improvement projects may be financed with

special assessments under this chapter only after the board holds a public hearing on the advisability of the improvements and services and the proposed assessments.

(c) The board shall publish notice of the hearing in a newspaper or newspapers with general circulation in Harris and Fort Bend Counties. The publication must be made not later than the 30th day before the date of the hearing.

(d) Notice provided under this section must include:

- (1) the time and place of the hearing;
- (2) the general nature of the proposed improvement project or services;
- (3) the estimated cost of the improvement, including interest during construction and associated financing costs; and
- (4) the proposed method of assessment.

(e) Written notice containing the information required by Subsection (d) shall be mailed by certified mail, return receipt requested, not later than the 30th day before the date of the hearing. The notice shall be mailed to each person within the authority who holds a permit for a well issued by the Harris-Galveston Subsidence District or Fort Bend Subsidence District, as applicable, and whose well is subject to a groundwater reduction requirement imposed by that district. The Harris-Galveston Subsidence District and Fort Bend Subsidence District shall provide to the authority a list of persons who hold such a permit.

(f) The board may establish rules regarding procedures for a hearing. A hearing on the services or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time. At the conclusion of a hearing conducted by the board, the board shall make written findings and conclusions relating to the advisability of the improvement project or services, the nature of the improvement project or services, the estimated cost, and the area benefited. If the board appoints a hearings examiner to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a written report of the examiner's findings and conclusions.

(g) At a hearing on proposed assessments, on adjournment of

the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment. The board may amend proposed assessments for any property. After the board hears and takes action on those objections, the board, by order:

(1) shall impose the assessments as special assessments on the property;

(2) shall specify the method of payment of the assessments; and

(3) may provide that those assessments, including interest, be paid in periodic installments.

(h) Periodic installments must be in amounts sufficient to meet annual costs for services and improvements as provided by Subsection (j) and continue for the number of years required to retire the indebtedness or pay for the services to be rendered. The board may provide interest charges or penalties for failure to make timely payment and may impose an amount to cover delinquencies and expenses of collection.

(i) If assessments are imposed for more than one service or improvement project, the board may provide that assessments collected for one service or improvement project may be borrowed to be used for another service or improvement project. The board shall establish a procedure for the distribution or use of any assessments in excess of those necessary to finance the services or improvement project for which those assessments were collected.

(j) The board shall apportion the cost of an improvement project or services to be assessed against the property in the authority according to the special benefits that accrue to the property because of the improvement project or services. The board may assess the cost only according to the number of gallons of groundwater pumped from wells within the authority that are subject to a groundwater reduction requirement imposed by the Harris-Galveston Subsidence District or Fort Bend Subsidence District, as applicable. The board may not assess the cost according to groundwater pumped from:

(1) a well with a casing diameter of less than five inches that serves only a single-family dwelling; or

(2) a well that is regulated by Chapter [27](#), Water Code.

(k) The area of the authority to be assessed according to the findings of the board may be the entire authority or any part of the authority and may be less than the area proposed in the notice of the hearing.

(l) The area to be assessed may not include property that is not within the authority boundaries at the time of the hearing unless there is an additional hearing, following the required notice.

(m) Notwithstanding Subsection (l), the owner of land annexed to the authority after the authority has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for land annexed to the authority. A district or municipality may waive the right to notice and an assessment hearing for land within its boundaries annexed to the authority and may agree to the imposition and payment of assessments at an agreed rate for the annexed land.

(n) The board shall have prepared an assessment roll showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be:

(1) filed with the secretary of the board or other officer who performs the function of secretary; and

(2) open for public inspection.

(o) After notice and hearing in the manner required for an original assessment, the board may make supplemental assessments to correct omissions or mistakes in the assessment:

(1) relating to the total cost of the improvement project or services; or

(2) covering delinquencies or costs of collection.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 18.011, eff. September 1, 2013.

Sec. 8813.106. INTEREST AND PENALTIES. The board may

require the payment of interest on any late or unpaid fees, user fees, rates, charges, and special assessments due the authority, but the interest rate may not exceed the interest rate permitted by Section [2251.025](#), Government Code. The board may also impose penalties for the failure to make a complete or timely payment to the authority. In addition, the board may exclude a person, or any territory or well owned or controlled by a person, from the authority's groundwater reduction plan for failure to make a complete or timely payment to the authority.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Sec. 8813.107. ATTORNEY'S FEES AND COLLECTION EXPENSES.

(a) The authority is entitled to reasonable attorney's fees incurred by the authority in enforcing its rules.

(b) The authority is entitled to collection expenses and reasonable attorney's fees incurred by the authority in collecting any delinquent fees, user fees, rates, and charges and any related penalties and interest.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Sec. 8813.108. LIEN. (a) Fees and user fees imposed by the authority under Section [8813.103\(b\)](#), any related penalties and interest, and collection expenses and reasonable attorney's fees incurred by the authority:

(1) are a first and prior lien against the well to which the fees or user fees apply;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owner of the well.

(b) A lien under this section is effective from the date of the resolution or order of the board imposing the fee or user fee until the fee or user fee is paid.

(c) The board may enforce the lien in the same manner that a

municipal utility district operating under Chapter 54, Water Code, may enforce an ad valorem tax lien against real property.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.109. ADMINISTRATIVE PENALTY; INJUNCTION. (a) A person who violates a rule or order of the authority is subject to an administrative penalty of not more than \$5,000, as determined by the board, for each violation or each day of a continuing violation. The person shall pay the penalty to the authority.

(b) The authority may bring an action to recover the penalty in a district court in the county where the violation occurred.

(c) The authority may bring an action for injunctive relief in a district court in the county where a violation of an authority rule or order occurs or is threatened to occur. The court may grant to the authority, without bond or other undertaking, a prohibitory or mandatory injunction that the facts warrant, including a temporary restraining order, temporary injunction, or permanent injunction.

(d) The authority may bring an action for an administrative penalty and injunctive relief in the same proceeding.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.110. WATER SUPPLY OR DROUGHT CONTINGENCY PLANS. The authority by rule may develop, prepare, revise, adopt, implement, enforce, and manage comprehensive water supply or drought contingency plans for the authority, or any portion of the authority.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.111. GROUNDWATER REDUCTION PLAN. (a) The authority may wholly or partly develop, prepare, revise, adopt, implement, enforce, manage, or participate in a groundwater reduction plan that is applicable only to the authority and one or more persons outside the authority. The authority may require that

any groundwater reduction plan that the authority wholly or partly develops, prepares, revises, adopts, implements, enforces, or manages or in which the authority participates be the exclusive groundwater reduction plan that is binding and mandatory on some or all of the territory, persons, or wells located within the authority. A groundwater reduction plan may:

(1) specify the measures to be taken to reduce groundwater withdrawals;

(2) identify alternative sources of water, including water from the authority, to be provided to those affected;

(3) identify the rates, terms, and conditions under which alternative sources of water will be provided, which may be changed from time to time as considered necessary by the authority;

(4) specify the dates and extent to which persons or districts within the authority's boundaries shall reduce or cease reliance on groundwater and accept water from alternative sources, including water from the authority;

(5) include other terms and measures that are consistent with the powers and duties of the authority;

(6) exceed the minimum requirements imposed by the Harris-Galveston Subsidence District or Fort Bend Subsidence District, as applicable, including any applicable groundwater reduction requirements; and

(7) be amended from time to time at the discretion of the authority.

(b) Fees, user fees, rates, charges, and special assessments of the authority may be imposed under this chapter for a person's participation in and benefit derived from the authority's groundwater reduction plan or a groundwater reduction plan in which the authority participates.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 18.012, eff. September 1, 2013.

Sec. 8813.112. ACQUISITION, CONSTRUCTION, AND OPERATION OF

SYSTEMS. (a) The authority may:

(1) acquire by purchase, gift, lease, contract, or any other legal means a water treatment or supply system, or any other works, plants, improvements, or facilities necessary or convenient to accomplish the purposes of the authority, or any interest of the authority, inside or outside the authority's boundaries;

(2) design, finance, operate, maintain, or construct a water treatment or supply system or any other works, plants, improvements, or facilities necessary or convenient to accomplish the purposes of the authority and provide water services inside or outside the authority's boundaries;

(3) lease or sell a water treatment or supply system or any other works, plants, improvements, or facilities necessary or convenient to accomplish the purposes of the authority that the authority constructs or acquires inside or outside the authority's boundaries;

(4) contract with any person to operate or maintain a water treatment or supply system the person owns; or

(5) acquire water rights under any law or permit.

(b) The authority may contract, according to terms and conditions the board considers desirable, fair, and advantageous, with a person outside the authority's boundaries:

(1) to allow the person, or the person's well, to be included in a groundwater reduction plan adopted or implemented wholly or partly by the authority or in a groundwater reduction plan in which the authority participates;

(2) to sell water to the person; or

(3) to sell the person available excess capacity or additional capacity of the authority's water treatment or supply system.

(c) The authority by rule may require that the plans and specifications of water lines to be constructed within the authority that are designed or intended to serve more than one district or more than one person owning or holding a well permit issued by the Harris-Galveston Subsidence District or Fort Bend Subsidence District, as applicable, be approved by the authority before the commencement of construction of the water lines.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 18.013, eff. September 1, 2013.

Sec. 8813.113. SALE OR REUSE OF WATER OR BY-PRODUCT. The authority may store, sell, or reuse:

(1) water; or

(2) any by-product from the authority's operations.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.

Sec. 8813.114. CONTRACTS. (a) The authority may enter into a contract with a person for the performance of a purpose or function of the authority, including a contract to design, construct, finance, lease, own, manage, operate, or maintain works, improvements, facilities, plants, equipment, or appliances necessary to accomplish a purpose or function of the authority. A contract may be of unlimited duration.

(b) The authority may purchase, acquire, finance, or lease an interest in a project used for a purpose or function of the authority.

(c) The authority may contract for:

(1) the purchase, sale, or lease of water or water rights;

(2) the performance of activities within the powers of the authority through the purchase, construction, or installation of works, improvements, facilities, plants, equipment, or appliances; or

(3) the design, construction, ownership, management, maintenance, or operation of any works, improvements, facilities, plants, equipment, or appliances of the authority or another person.

(d) The authority may purchase surplus property from this state, the United States, or another public entity through a negotiated contract without bids.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.115. COOPERATION WITH AND ASSISTANCE OF OTHER GOVERNMENTAL ENTITIES. (a) In implementing this chapter, the board may cooperate with and request the assistance of the Texas Water Development Board, the commission, the United States Geological Survey, the Fort Bend Subsidence District, other local governments, and other agencies of the United States and this state.

(b) The Fort Bend Subsidence District may enter into an interlocal contract with the authority to carry out the authority's purposes and may carry out the governmental functions and services specified in the interlocal contract.

(c) In an attempt to minimize costs associated with preparing a groundwater reduction plan, the board may consider the usefulness of water supply studies and plans prepared by or on behalf of the North Harris County Regional Water Authority, the West Harris County Regional Water Authority, the City of Houston, or other governmental entities to the extent those studies or plans are available and applicable to the authority.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.116. GIFTS AND GRANTS. The authority may accept a gift or grant from money collected by the Fort Bend Subsidence District to fund the construction, maintenance, or operation of a water treatment or supply system.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.117. EXPENDITURES. (a) The authority's money may be disbursed only by check, draft, order, federal reserve wire system, or other instrument or authorization.

(b) Disbursements of the authority must be signed by at least a majority of the directors. The board by resolution may allow the general manager, treasurer, bookkeeper, or other employee

of the authority to sign disbursements, except as limited by Subsection (c).

(c) The board by resolution may allow disbursements to be transferred by federal reserve wire system to accounts in the name of the authority without the necessity of any directors signing the disbursement. Disbursements of the authority's money by federal reserve wire system to any accounts not in the name of the authority must be signed by at least a majority of the directors.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.118. AD VALOREM TAXATION. The authority may not impose an ad valorem tax.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.119. EMINENT DOMAIN. (a) The authority may acquire by condemnation any land, easements, or other property inside the authority's boundaries to further authorized purposes, powers, or duties of the authority. The authority may acquire by condemnation any land, easements, or other property outside the authority's boundaries for the purposes of pumping, storing, treating, or transporting water. When exercising the power of eminent domain granted by this section, the authority may elect to condemn either the fee simple title or a lesser property interest.

(b) The authority shall exercise the right of eminent domain in the manner provided by Chapter 21, Property Code. The authority is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party. The authority is not required to deposit more than the amount of an award in a suit.

(c) The authority may not use the power of eminent domain for the condemnation of land for the purpose of acquiring rights to groundwater or for the purpose of acquiring water or water rights.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. 1798), Sec. 1, eff. June 17, 2005.

Sec. 8813.120. ACTION AGAINST PERSON, DISTRICT, OR POLITICAL SUBDIVISION. (a) The authority may bring an action in a district court against a person, including a district or other political subdivision located in the authority's territory or included in the authority's groundwater reduction plan, to:

(1) recover any fees, rates, charges, assessments, collection expenses, attorney's fees, interest, penalties, or administrative penalties due the authority; or

(2) enforce the authority's rules or orders.

(b) Governmental immunity from suit or liability of a district or other political subdivision is waived for the purposes of an action under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 875 (S.B. [2514](#)), Sec. 2, eff. June 19, 2009.

SUBCHAPTER D. BONDS AND NOTES

Sec. 8813.151. REVENUE BONDS AND NOTES. (a) The authority may issue bonds or notes payable solely from revenue from any source, including:

(1) tolls, charges, rates, fees, user fees, and special assessments the authority imposes or collects;

(2) the sale of water, water services, water rights or capacity, water transmission rights or services, water pumping, or any other service or product of the authority provided inside or outside the boundaries of the authority;

(3) grants or gifts;

(4) the ownership or operation of all or a designated part of the authority's works, improvements, facilities, plants, or equipment; and

(5) contracts between the authority and any person.

(b) Notes issued by the authority may be first or subordinate lien notes at the board's discretion.

(c) In connection with any bonds or notes of the authority, the authority may exercise any power of an issuer under Chapter [1371](#), Government Code.

(d) The authority may conduct a public, private, or

negotiated sale of the bonds or notes.

(e) The authority may enter into one or more indentures of trust to further secure its bonds or notes.

(f) The authority may issue bonds or notes in more than one series as necessary to carry out the purposes of this chapter. In issuing bonds or notes secured by revenue of the authority, the authority may reserve the right to issue additional bonds or notes secured by the authority's revenue that are on a parity with or are senior or subordinate to the bonds or notes issued earlier.

(g) A resolution of the board authorizing the bonds or notes or a trust indenture securing the bonds or notes may specify additional provisions that constitute a contract between the authority and its bondholders or noteholders.

(h) Bonds and notes may be additionally secured by deed of trust or mortgage on any or all of the authority's facilities.

(i) The authority may issue refunding bonds or notes to refund any of its bonds or notes in any manner provided by law.

(j) Sections [49.153](#), [49.154](#), and [49.181](#), Water Code, do not apply to bonds or notes issued by the authority. Commission rules regarding bonds or notes do not apply to bonds or notes issued by the authority.

Added by Acts 2005, 79th Leg., Ch. 893 (S.B. [1798](#)), Sec. 1, eff. June 17, 2005.