

SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 6. WATER AND WASTEWATER

SUBTITLE H. DISTRICTS GOVERNING GROUNDWATER

For contingent expiration of this chapter, see Section 8856.004.

CHAPTER 8856. NORTH TEXAS GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8856.001. 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 North Texas Groundwater Conservation District.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.002. NATURE OF DISTRICT; FINDINGS. (a) The district is a groundwater conservation district in Collin, Cooke, and Denton 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.003. PUBLIC HEARING IN EACH COUNTY. (a) Not later than December 1, 2009, the commissioners court of each county

in the district shall hold a public hearing on the topic of including the territory of the county in the district.

(b) After the public hearings and not later than December 31, 2009, the commissioners court of each county shall vote to confirm or reject the county's inclusion in the district. The commissioners court shall adopt a resolution reflecting the result of that vote and provide a copy of the resolution to the temporary directors.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. [2497](#)), Sec. 1, eff. May 27, 2009.

Sec. 8856.004. CONFIRMATION REQUIRED. (a) The creation of the district is confirmed only if the commissioners courts of two or more of the counties in the district submit a resolution confirming the county's inclusion in the district to the temporary board. If the commissioners court of a county does not submit a resolution confirming the county's inclusion in the district to the temporary board, that county is not included in the district. The temporary board shall provide a copy of the resolutions and the final district boundaries to the Texas Commission on Environmental Quality.

(b) If the creation of the district is not confirmed as provided by Subsection (a) before January 1, 2010:

(1) the district is dissolved on January 1, 2010, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred in equal amounts to Collin, Cooke, and Denton Counties; 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, 2011.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. [2497](#)), Sec. 1, eff. May 27, 2009.

Sec. 8856.005. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of

Collin, Cooke, and Denton Counties.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.007. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the legislative intent and purposes of Chapter 36, Water Code. A power granted by Chapter 36, Water Code, or this chapter shall be broadly interpreted to achieve that intent and those purposes.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8856.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of six or nine directors appointed as provided by this section.

(b) If the Commissioners Courts of Collin, Cooke, and Denton Counties confirm the inclusion of those counties in the district, nine directors shall be appointed as follows:

(1) the Collin County Commissioners Court shall appoint three directors;

(2) the Cooke County Commissioners Court shall appoint three directors; and

(3) the Denton County Commissioners Court shall appoint three directors.

(c) If the commissioners courts of only two of the counties confirm the inclusion of those counties in the district, the commissioners court of each of those counties shall appoint three directors.

(d) The commissioners court of each appointing county shall

appoint two of the three directors from that county as follows:

(1) one director from a slate of not more than three nominees submitted by the largest municipal groundwater producer in the county; and

(2) one director from a slate of not more than three nominees submitted by the other groundwater producers in that county.

(e) Directors serve staggered four-year terms, with the term of one or two directors from each appointing county expiring on June 1 of each odd-numbered year.

(f) A director may serve multiple consecutive terms.

(g) A position on the board may not be construed to be a civil office of emolument for any purpose, including a purpose described by Section 40, Article XVI, Texas Constitution.

(h) A person who qualifies to serve on the board may serve as a director and participate in all votes relating to the business of the district regardless of any common law doctrine of incompatibility. Section 36.051, Water Code, does not apply to the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.052. 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 in the manner provided by Section 36.055, Water Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.053. VACANCIES. If a vacancy occurs on the board, the commissioners court that appointed the director who vacated the office shall appoint a person to fill the vacancy in a manner that meets the representational requirements of Section 8856.051.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.054. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.055. BOARD CHAIR. The board shall select one of its members to serve as the chair for a two-year term. The position of chair must rotate among the counties in the district every two years in alphabetical order by county.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8856.101. 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, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.102. CONTRACTS. The district may enter into a contract with any person, public or private, for any purpose authorized by law.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.103. APPLICABILITY OF DISTRICT REGULATIONS. Groundwater regulation under this chapter applies to all persons except as exempted from the requirement to obtain a permit for a well under Section 36.117, Water Code, or this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.104. 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 8856.103, the district may require any 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.105. 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 Subsection (b)(1) of that section, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.106. ENFORCEMENT. (a) The district may enforce this chapter 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 8856.152 on a person producing groundwater in violation of a rule of the district, including the failure or refusal to comply with any order or rule of the district to reduce or cease groundwater usage. The purpose of a fee authorized under 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 8856.152.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.107. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8856.151. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.

Sec. 8856.152. DISTRICT REVENUES. (a) The district by rule, resolution, or order may establish, amend, pledge, encumber, expend 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 revenues 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 exempted under Subsection (b)(1) of that section. 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.

(f) The district may not charge an export fee to a producer of groundwater withdrawn from a well in the district who distributes the water to any part of the territory under the provider's certificate of public convenience and necessity even if the territory is outside the district's boundaries.

Added by Acts 2009, 81st Leg., R.S., Ch. 248 (S.B. 2497), Sec. 1, eff. May 27, 2009.