

SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 6. WATER AND WASTEWATER

SUBTITLE H. DISTRICTS GOVERNING GROUNDWATER

For expiration of this subchapter, see Section 8859.025.

CHAPTER 8859. RED RIVER GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8859.001. 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 Red River Groundwater Conservation District.

(4) "Water services district" means a district created under the authority of Section 59, Article XVI, or Section 52, Article III, Texas Constitution, with the authority to provide retail water service in the district.

(5) "Water supply corporation" means a water supply corporation operating under Chapter 67, Water Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.002. NATURE OF DISTRICT; FINDINGS. (a) The district is a groundwater conservation district in Grayson and Fannin 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. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.003. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Grayson and Fannin Counties.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.004. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. (a) Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

(b) Subchapter B, Chapter 36, Water Code, does not apply to the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.005. 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. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8859.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of seven directors appointed as provided by this section.

(b) Directors serve staggered four-year terms, with the terms of three or four directors from each appointing county expiring on August 31 of each odd-numbered year.

(c) A director serves until the director's successor has qualified to serve.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1,

eff. September 1, 2009.

Sec. 8859.052. DIRECTOR ELIGIBILITY; QUALIFICATION. (a) To be eligible to serve as a director:

(1) a person appointed under Section 8859.053(a)(1), (2), or (3) must be a registered voter of Fannin County; and

(2) a person appointed under Section 8859.053(a)(4), (5), or (6) must be a registered voter of Grayson County.

(b) Each director must qualify to serve in the manner provided by Section 36.055, Water Code.

(c) A person who qualifies as a director may participate in all votes relating to the business of the district, regardless of any common law doctrine or statutory prohibition related to conflicts of interest or incompatibility.

(d) Section 36.058, Water Code, does not apply to a director.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.053. APPOINTMENT OF DIRECTORS. (a) The board consists of seven directors as follows:

(1) one director appointed by the commissioners court of Fannin County at the discretion of the commissioners court;

(2) one director appointed by the commissioners court of Fannin County selected from a list of nominees submitted to the commissioners court by the governing bodies of the municipalities in Fannin County;

(3) one director appointed by the commissioners court of Fannin County selected from a list of nominees submitted to the commissioners court by the water services districts and water supply corporations that provide retail water service to customers in Fannin County, subject to the limitation provided by Subsection (f);

(4) two directors appointed by the governing body of the municipality in Grayson County that has the largest annual production of groundwater by volume for the four years preceding the appointment;

(5) one director appointed jointly by the governing bodies of the municipalities in Grayson County other than the municipality described by Subdivision (4); and

(6) one director appointed jointly by the governing boards of all water services districts and water supply corporations that provide retail water service to customers in Grayson County, subject to the limitation provided by Subsection (f).

(b) Directors must be appointed not later than the second Monday in August of each odd-numbered year.

(c) Not later than the 60th day before the second Monday in August of each odd-numbered year, the district shall mail written notice to each entity authorized to make an appointment under Subsection (a).

(d) The board by rule shall adopt a procedure for the written submission of appointments to the district.

(e) An entity that Subsection (a)(2) or (3) authorizes to nominate persons for director shall submit a list of nominees not later than the 30th day before the date the appointment is to be made under this section. If an entity designated by Subsection (a)(2) or (3) does not submit the list before that date, the commissioners court of Fannin County may appoint a director to the position for which the list was not received at the discretion of the commissioners court.

(f) A water services district or water supply corporation in Grayson and Fannin Counties may not participate in the appointment of a director unless that district or corporation used groundwater produced from wells located within the district to provide retail water service in the district during the calendar year of the appointment or the calendar year preceding the appointment. The board may require evidence of eligibility to participate.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. [2529](#)), Sec. 1, eff. September 1, 2009.

Sec. 8859.054. VACANCIES. If a vacancy occurs on the board, the entity that appointed the director who vacated the office shall appoint a person to fill the vacancy for the unexpired term in the

manner provided for the vacant position by Section 8859.053.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.055. 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.

(c) A position on the board is not a civil office of emolument for any purpose, including a purpose described in Section 40, Article XVI, Texas Constitution.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.056. QUORUM; CONCURRENCE FOR TRANSACTING BUSINESS. (a) A majority of the board membership constitutes a quorum for any meeting and a concurrence of a majority of the board shall be sufficient to transact district business, except as provided by Subsection (b).

(b) A concurrence of not fewer than six directors is required for transacting the following district business:

(1) establishing or amending a groundwater production fee assessed by the district based on the amount of groundwater authorized by permit to be withdrawn from a well or on the amount of water actually withdrawn from a well;

(2) adopting the annual budget of the district; and

(3) except as provided by Subsection (c), granting or denying a permit or permit amendment for a well that is intended to produce water within the district which will be transported in any amount for use outside the boundaries of the district.

(c) A concurrence of a majority of the board is sufficient to grant or deny a permit or permit amendment submitted by a retail public utility that provides retail water service in the district and intends to:

(1) produce water from a well located:

(A) within the district; and

(B) inside the boundaries or a certificated service area of a retail public utility; and

(2) transport the water outside the district, so long as the water is used within the same certificated service area or boundary of the retail public utility.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.057. DECENNIAL REVIEW OF DISTRICT REPRESENTATION.

(a) Not later than January 1, 2019, and every 10 years following that date, the board shall complete a review of the adequacy of representation of water users on the board based on groundwater production and use within the district.

(b) Not later than the 20th day following the date the review is complete, the board shall submit the review described in Subsection (a) and any recommendation the board may have relating to the reapportionment of directors or the representational structure of the board to each member of the house of representatives and each member of the senate whose state legislative district includes territory in the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8859.101. 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. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.102. 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. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.103. APPLICABILITY OF DISTRICT RULES REGULATING GROUNDWATER. District rules regulating groundwater adopted under this chapter apply to all persons except as exempted under Section 36.117, Water Code, or this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.104. 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 by rule may provide 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 8859.103, 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. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.105. 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. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.106. 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 8859.152 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 8859.152.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8859.151. TAXES PROHIBITED. The district may not impose a tax. Sections 36.201-36.204, Water Code, do not apply to the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.

Sec. 8859.152. 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, 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 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 assess a fee for transporting water that is produced from a well located inside the district and inside a certificated service area of a retail public utility and transported outside of the district, if the water is used in the same certificated service area of the retail public utility.

Added by Acts 2009, 81st Leg., R.S., Ch. 884 (S.B. 2529), Sec. 1, eff. September 1, 2009.