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Every Friday, this newsletter will keep you up to speed on some of the legislation important to Texas Farm Bureau members that Austin staff are following.

Please do not hesitate to contact the appropriate staff with any questions.

Education

[SB 3](#), by **Sen. Jane Nelson (R- Grapevine)**, and **[HB 1371](#)**, by **Rep. Ryan Guillen (D-Rio Grande City)**, will give full-time classroom teachers an annual salary increase in the amount of \$5,000. The school district may provide salary raises in addition to the allotment based off of the teacher's merit. The district shall also give written notice to each teacher that the allotment is provided by the state.

SB 3 was voted favorably from the Senate committee on Finance on Feb. 25.
HB 1371 was referred to the House Committee on Public Education.

TFB supports SB 3 and HB 1371. (TFB policy: Education 179, lines 34-35)

Utilities Taking Groundwater Rights

[HB 2249](#), by **Rep. Eddie Lucio, III (D- San Benito)**, relates to a groundwater conservation district regulating the production of wells for retail public utilities.

HB 2249 is being promoted for the third legislative session by the Texas Rural Water Association. They say this legislation is needed to prevent an increase in the cost of water. But they are attempting to prevent that increase in cost by unconstitutionally taking groundwater without compensation from the landowners in their service area.

HB 2249 proposes that when regulating the production of groundwater based on tract size or acreage, a district shall consider not just the acreage the utility actually owns, but the acreage of their service area.

To determine the service area of a retail public utility, a district must first determine the number of acres in the retail public utility's service area that overlaps the aquifer from which a completed or proposed well owned by the utility will produce groundwater. The district then will deduct from that number, the number of acres in that portion of the service area that the district has permitted to landowners.

The bill also states that a district cannot deny a landowner a permit for a well because of the location of a well owned by a utility, and a utility may not file a protest or objection to a landowner's application for a permit if the proposed well is located in the utilities service area.

This is an attempt to address the property rights issues in the bill. However, groundwater ownership gives the landowner a right to the water under their land, not just a right to drill a well. HB 2249 proposes to allow the utility to use someone else's property until the landowner wants to use it. This is not consistent with property law.

HB 2249 presents some serious legal issues regarding constitutional rights of landowners:

1. It attempts to statutorily convey landowners' groundwater rights to the utility. The Legislature does not have the power to convey someone's private property or private property rights to someone else without due process. Therefore, this violates the right to due process under the Constitution;
2. It takes private property (groundwater) for a public use without compensation or the landowner's consent. This is a violation of the Takings Clause of the Constitution; and
3. It requires groundwater conservation districts to illegally discriminate. They want to produce large volumes of groundwater from small tracts of land when all the other groundwater users in the district are allocated production based on acreage. This violates the Equal Protection clause of the Constitution, which protects individuals from government regulations that restrict the rights of some people to benefit others.

These utilities have the option to buy or lease these rights, or **they can ask their customers to voluntarily give their consent to use their groundwater rights to avoid increasing water rates.** But these rights cannot be taken through legislation or groundwater regulation.

TFB opposes HB 2249. (TFB Policy: Groundwater 153, Lines 61-63; 78-83; 175-178; and 244-246)

Hemp

SB 1240, by **Sen. Charles Perry (R- Lubbock)**, relates to the production and regulation of hemp; requiring an occupational license; and authorizing fees.

This legislation is necessary for Texas to have primary regulatory authority over hemp production in the state and allows farmers to legally grow and produce hemp. This legislation follows the Agricultural Marketing Act of 1946 to allow states' departments of agriculture to submit a state plan to the United States Department of Agriculture for monitoring and regulating the production of hemp in their state. SB 1240 states the Texas Department of Agriculture (TDA) has authority to regulate the production of hemp.

This bill codifies in state statute the federal requirements found in the farm bill in that a person must obtain a license through TDA to produce hemp. Under this bill, TDA must set and collect fees to implement the program. Fees may not exceed the amount prescribed in the bill, nor may TDA set or collect a fee associated with the **production of hemp that is not specifically authorized in the bill**. The fees collected by the department are not refundable and may only be used for the purposes listed. The farm bill also requires a background check to obtain a license. In addition, SB 1240 amends the Texas Controlled Substances Act to exclude hemp with a THC concentration not more than 0.3 percent.

A license holder must notify the department no more than 20 days before the date the license holder expects to harvest hemp plants. A license holder may not harvest a hemp plant unless the delta-9 THC concentration of a representative sample of hemp plants from the plot where the plant is growing is tested using an approved method.

TFB supports SB 1240. (TFB Policy: Agriculture Commodities 109, lines 23-25)



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