



# AUSTIN NEWSLETTER

Texas Farm Bureau's Weekly Newsletter for the 87th Legislature

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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.

## Legislative Update

### Water

[SB 152](#) and companion [HB 668](#): Relating to the regulation of groundwater conservation districts.

[Perry, Charles \(R\)](#) and [Harris, Cody \(R\)](#)

### Summary:

SB 152 and HB 668 empower landowners to protect their constitutional rights from illegal groundwater regulations. Current law does not require enough transparency or provide landowners with reasonable options to change or challenge bad regulations.

If property owners are faced with an illegal regulation, they only have one option—to challenge the district's action in court and take on the risk having to pay the district's attorney fees.

The language in SB 152 and HB 668 is currently being negotiated. The following description of the bills is based upon the current state of negotiations:

- 1. Requiring notice of a permit or permit amendment that will prevent a neighboring landowner from being able to drill a well on their property or drill at a particular location on their property. The local district will determine how that notice will be provided.**

This notice will give landowners who will be DIRECTLY affected by the district's actions an opportunity to decide if they should participate in the permitting process to protect their right to drill a well.

In some districts, spacing rules allow a neighbor to drill a well 50 feet from a property line. Depending on the size of the well, a similar well cannot be drilled within 1,000 to 3,000 feet from that well.

These spacing requirements can affect the rights of neighboring landowners to drill a well on their property. Depending on the tract size, the neighboring landowner may not be able to drill a well anywhere on their property, or they may have to drill their well hundreds to thousands of feet into their property.

This directly impacts the right of a landowner to drill and operate an "offset well" to protect their "fair share" of groundwater from drainage by neighboring landowners.

Courts have been applying the property rights set in oil and gas cases to groundwater. Under those property rights established by the court, rules that prevent a landowner from protecting themselves from drainage are unconstitutional.

**2. Allowing a landowner to petition the district to conduct rulemaking. Each local district will determine how a landowner will petition their district.**

This is needed to give landowners an alternative to filing a lawsuit when the district's rules have potential to negatively affect a landowner's rights to their groundwater.

Landowners currently have the right to petition state agencies or municipalities to change regulations. Since groundwater conservation districts regulate constitutionally-protected property rights, landowners should also have the right to petition their local district to change a regulation.

**3. Gives landowners fair access to the courts by giving the judge discretion in determining whether to award attorney fees to a district.**

Current law mandates the awarding of attorney fees to a district that prevails in court. This financial risk often prevents landowners with legitimate complaints from challenging an illegal regulation.

This unfair "attorney fees provision" takes away reasonable access to the courts that landowners need to protect their property rights from regulatory overreach. The courts are the only governmental entity with the power to determine if regulations unjustly violate the Equal Protection or Takings Clause of the constitution.

Texas Farm Bureau policy supports local regulation versus state or federal regulation of private property. However, Texas Farm Bureau policy is clear that any regulation of private property must respect the landowner's constitutional rights.

The provisions of SB 152 and HB 668 assist landowners in protecting their constitutional rights to groundwater.

TFB **supports** SB 152 and HB 668. (TFB 2021 Policy: Real Property Rights 150, Page 57, Lines 13-16; Groundwater 153, Pages 67 and 69, Lines 9-13, 45-59 and 140-145.)

## **2021 Texas Farm Bureau Virtual Leadership Conference**

**Feb. 9, 2021**

Please join us at 3 p.m. on Feb. 9 for the 2021 Texas Farm Bureau Virtual Leadership Conference. We will be meeting with Texas legislators to discuss eminent domain reform and other critical agricultural and rural issues.

Although this will be an unusual legislative session, Texas Farm Bureau still has priority issues to accomplish. This virtual leadership conference will provide information our grassroots leaders need to advocate on these issues.

After opening comments from TFB President Russell Boening, state legislators will participate in a discussion panel.

Legislators who have agreed to participate in the Eminent Domain Panel include:

- Sen. Lois Kolkhorst (R-Brenham), SD 18
- Rep. DeWayne Burns (R-Cleburne), HD 58.

Legislators who have agreed to participate in the Agricultural/Rural Issue Panel include:

- Senator Charles Perry (R-Lubbock), SD 28
- Senator Drew Springer (R-Muenster), SD 30
- Representative Andrew Murr (R-Junction), HD 53
- Representative Mary Gonzalez (D-Clint), HD 75.

Following the discussions, TFB legislative staff will share an update on other legislation important to Texas Farm Bureau.

You can [click here](#) to register.

## 87th Legislative Session Senate Committee Assignments

Lt. Gov. Dan Patrick released the 87<sup>th</sup> Session Senate Committee assignments. The following committees have jurisdiction over Texas Farm Bureau priority issue areas:

The Texas Senate Committee on *Water, Agriculture & Rural Affairs* will be chaired by Sen. [Charles Perry](#) (R-Lubbock). Vice Chair, Sen. [Drew Springer](#) (R-Muenster)—who served in the Texas House of Representatives from 2013 to 2021—is an experienced addition, despite being a newcomer to the Senate. The remaining seven members of the *Senate Committee on Water, Agriculture, & Rural Affairs* are [Brandon Creighton](#) (R-Conroe), [Sarah Eckhardt](#) (D-Austin), [Roland Gutierrez](#) (D-San Antonio), [Nathan Johnson](#) (D-Dallas), [Lois Kolkhorst](#) (R-Brenham), [Beverly Powell](#) (D-Burleson) and [Larry Taylor](#) (R-Friendswood).

The Texas Senate *State Affairs Committee* will be chaired by Sen. [Bryan Hughes](#) (R-Mineola), and vice chaired by [Brian Birdwell](#) (R-Granbury). The remaining seven members are [Donna Campbell](#) (R-New Braunfels), [Bob Hall](#) (R-Rockwall), [Eddie Lucio, Jr.](#) (D-Brownsville), [Jane Nelson](#) (R-Flower Mound), [Beverly Powell](#) (D-Burleson), [Charles Schwertner](#) (R-Georgetown) and [Judith Zaffirini](#) (D-Laredo). This committee will likely handle issues regarding eminent domain.

The Texas Senate Committee on *Local Government* will be chaired by Sen. [Paul Bettencourt](#) (R). The vice chair will be [José Menéndez](#) (D-San Antonio). [Sarah Eckhardt](#) (D-Austin), [Roland Gutierrez](#) (D-San Antonio), [Bob Hall](#) (R-Rockwall), [Robert Nichols](#) (R-Jacksonville), [Angela Paxton](#) (R-McKinney), [Drew Springer](#) (R-Muenster) and [Judith Zaffirini](#) (D-Laredo) are the other seven members of the committee. The Texas Senate Committee on *Local Government* will be a group to watch when monitoring the status of legislation concerning land use and annexation matters.

The Texas Senate Committee on *Finance* will be chaired by Sen. [Jane Nelson](#) (R-Flower Mound), and Sen. [Eddie Lucio, Jr.](#) (D-Brownsville) will serve as vice chair. The remaining 13 members are [Paul Bettencourt](#) (R), [Dawn Buckingham](#) (R-Lakeway), [Donna Campbell](#) (R-New Braunfels), [Brandon Creighton](#) (R-Conroe), [Kelly Hancock](#) (R-North Richland Hills), [Joan Huffman](#) (R-Houston), [Lois Kolkhorst](#) (R-Brenham), [Robert Nichols](#) (R-Jacksonville), [Charles Perry](#) (R-Lubbock), [Charles Schwertner](#) (R-Georgetown), [Larry Taylor](#) (R-Friendswood), [Royce West](#) (D-Dallas) and [John Whitmire](#) (D-Houston). This committee will hear state budget and tax issues. The effort to remove the prohibitions of the study and use of certain chemical controls for feral hogs will also go through this committee.

The Texas Senate Committee on *Natural Resources & Economic Development* will be chaired by Sen. [Brian Birdwell](#) (R-Granbury), with [Judith Zaffirini](#) (D-Laredo) as the vice chair. The other seven members of the committee are [Carol Alvarado](#) (D-Houston), [Kelly Hancock](#) (R-North Richland Hills), [Juan "Chuy" Hinojosa](#) (D-

McAllen), [Bryan Hughes](#) (R-Mineola), [Lois Kolkhorst](#) (R-Brenham), [Eddie Lucio, Jr.](#) (D-Brownsville) and [Kel Seliger](#) (R-Amarillo).

The Texas Senate Committee on *Transportation* will be chaired by Sen. [Robert Nichols](#) (R-Jacksonville), and Sen. [Kel Seliger](#) (R-Amarillo) will serve as vice chair. The remaining seven members of the committee include [Carol Alvarado](#) (D-Houston), [César Blanco](#) (D-El Paso), [Kelly Hancock](#) (R-North Richland Hills), [Juan "Chuy" Hinojosa](#) (D-McAllen), [Lois Kolkhorst](#) (R-Brenham), [Charles Perry](#) (R-Lubbock) and [Royce West](#) (D-Dallas). This committee will handle transportation infrastructure issues, such as high-speed rail, as well as trucking regulations.