



AUSTIN NEWSLETTER

Texas Farm Bureau's Weekly Newsletter for the 88th 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.

Water

[HB 1971](#): Relating to the procedures for acting on a permit or permit amendment application by a groundwater conservation district and the disqualification of board members of groundwater conservation districts.

[Ashby, Trent \(R\)](#)

Summary:

Directors breaking a Quorum

HB 1971 amends the Texas Water Code to implement punishments for directors who recuse themselves or do not attend a meeting for the purpose of preventing action from being taken on the permit application. Such directors may be removed from the board.

Permitting Process

If a permit is contested and a hearing is held where an administrative law judge recommends the granting or denial of the requested permit, the GCD must provide the findings of facts and conclusions of law that is the basis of their decision on a permit. The GCD can't make a decision without explaining it. The GCD's decision must be made within 180 days of the administrative hearing.

If the GCD does not make a decision within 180 days, the recommendations on the permit from the administrative law judge is adopted. This decision can be appealed.

TFB **supports** HB 1971. (TFB 2023 Policy: Groundwater Section 153, Page 70, Lines 45-48; Groundwater Section 153, Page 71, Lines 140-145)

[SB 837:](#) Relating to financial assistance provided and programs administered by the Texas Water Development Board.

[Perry, Charles \(R\)](#)

Summary:

This bill would use \$3 billion of the \$33 billion state surplus to create the “Water for Texas Fund.” The fund would go toward water infrastructure projects for rural political subdivisions, municipalities with a population less than 150,000, and projects to develop new water supply sources.

These projects may include developing infrastructure to transport water from another state, a desalination project using marine water or brackish groundwater, and funding research into new water technologies.

The State Water Implementation Fund for Texas (SWIFT) Advisory Committee will make recommendations to the Water Development Board on what rules they should adopt and review the operation, function, and structure of the fund.

Further, the Water Development Board “shall undertake to acquire” 7 million acre-feet of new water supplies from new sources by Dec. 31, 2033.

The Water Development Board must also establish a program to aid retail public utilities in conducting water audits and in applying for financial assistance from the board to mitigate the utility system’s water loss caused by leaks.

[SJR 43:](#) Proposing a constitutional amendment creating the water for Texas fund to assist in financing water projects in this state.

[Perry, Charles \(R\)](#)

This Senate Joint Resolution amends the Texas Constitution to allow for the funding of the Waters for Texas Fund created in SB 837.

TFB **supports** SB 837 and SJR 43. (TFB Policy: Research Section 135, Page, 27, Lines 45-47; Water Management Section 155, Page 79, Lines 37-40 & 43-45; Water Management Section 155, Page 80, Lines 146-147)

Land Use Regulation

[HB 2308:](#) Relating to nuisance actions and other actions against agricultural operations.

[Ashby, Trent \(R\)](#)

Summary:

HB 2308 strengthens the current protections in law to prevent nuisance lawsuits against agricultural operations.

History

Across the nation, farmers and ranchers are being sued because their operations are a nuisance to others. One of the most prominent examples was in North Carolina, where a commercial hog farmer was sued by a group of neighboring landowners.

While this case took place in North Carolina, farmers and ranchers are concerned that similar situations could occur in their state. Expanding cities are coming after preexisting agricultural operations because they do not like the smell or traffic they produce. Texas farmers and ranchers need additional protections from these kinds of nuisance lawsuits.

Current Law

Under the current statute, preexisting agricultural operations are protected from nuisance suits if they have been in operation for a year. However, if an operation expands, the clock "restarts" and the operation may be sued for the next year. After a year, an operation may still be sued if the conditions or circumstances of the operation substantially change, even if there was no expansion of the operation.

Proposed Changes

Rep. Ashby's bill amends the Texas Agricultural Code to protect "agricultural operations" from nuisance and other legal actions during and after expansion. For example, if the construction equipment improving an ag operation is loud, a nuisance suit cannot be brought on the basis of that noise.

After a year has passed, nuisance suits may be brought only if "clear and convincing evidence" of a nuisance can be proved in court.

TFB **supports** HB 2308. (TFB 2023 Policy: Real Property Rights Section 150, Page 59, Lines 29-31; Real Property Rights Section 150, Page 60, Lines 107-108; Real Property Rights Section 150, Page 61, Lines 153-154)

[**HB 2271:**](#) Relating to the protection of aquaculture operations.

[Kacal, Kyle \(R\)](#)

Summary:

HB 2271 revises the Texas Agricultural code to include “aquaculture” as an “agricultural operation.” Aquaculture operations are due the same benefits, rights, and protections as all other agricultural operations.

If this bill passes, along with [HB 1750](#) (discussed in [a previous Austin Newsletter](#)), aquaculture would be afforded the same right to farm protections as all other ag operations included in HB 1750.

TFB **supports** HB 2271. (TFB 2023 Policy: Aquaculture Section 110, page 8, lines 1-4)

Local Government

[SB 814](#) by [Creighton, Brandon](#) & [HB 2127](#) by [Burrows, Dustin](#): Relating to state preemption of certain municipal and county regulation.

Summary:

SB 814 and HB 2127 seek to make sure local governmental entities do not step out of their scope of authority. In other words, if cities and counties attempt to enforce an ordinance inconsistent with state law, the ordinance would be void and unenforceable.

If a local governmental entity attempts to regulate an activity already regulated by state law, a person, business, corporation, or any other legal entity may bring suit to challenge that regulation. Official and qualified immunity cannot be used as a defense by the local governmental entity.

The specific codes the municipalities may not violate are: Section 1.004, Agriculture Code; Section 1.004, Finance Code; Section 30.005, Insurance Code; Section 1.005, Labor Code; Section 1.003, Natural Resources Code; or Section 1.004, Occupations Code.

TFB **supports** SB 814 & HB 2127. (TFB 2023 Policy: Agricultural Chemicals Section 136, Page 29, Lines 93-95; Feed and Fertilizer Law Section 137, Page 31, Lines 48-49; Cities Section 171 Page 104, Lines 7-12; Cities Section 171, Page 104, Lines 19-21; Cities Section 171, Page 105, Lines 43-47)

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