



# AUSTIN NEWSLETTER

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

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March 31, 2023 | Regular Session, Issue 11 | 88th Regular Session

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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.

## Update on Previously Reported Bills

**HB 2:** Relating to providing property tax relief through the public school finance system and property tax appraisal and administration.

[Meyer, Morgan \(R\)](#)

HB 2 was summarized in [a previous edition of the Austin Newsletter](#).

### Update:

HB 2 was voted favorably out of the Committee on House Ways and Means with a 10-1 vote.

TFB **supports** the bill.

**HB 73:** Relating to limitation of certain liability of owners, lessees, and occupants of land in connection with livestock and agricultural land.

[Murr, Andrew \(R\)](#)

HB 73 was summarized in [a previous edition of the Austin Newsletter](#).

### Update:

HB 73 was voted favorably out of the Committee on House Judiciary & Civil Jurisprudence with a 9-0 vote.

TFB **supports** the bill.

**HB 92:** Relating to the authority of a municipality, county, or property owners' association to prohibit or regulate certain activities on residence homestead property.

[Landgraf, Brooks \(R\)](#)

HB 92 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

HB 92 was voted favorably out of the Committee on House Agriculture & Livestock with a 9-0 vote.

TFB **supports** the bill.

**HB 2271:** Relating to the protection of aquaculture operations.

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

HB 2271 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

HB 2271 was voted favorably out of the Committee on House Agriculture & Livestock with a 9-0 vote.

TFB **supports** the bill.

**HB 2308:** Relating to the protection of aquaculture operations.

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

HB 2308 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

HB 2308 was voted favorably out of the Committee on House Agriculture & Livestock with a 7-0 vote.

TFB **supports** the bill.

**HB 2443:** Relating to the authority of certain persons to petition a groundwater conservation district to change certain rules.

[Harris, Cody \(R\)](#)

HB 2443 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

HB 2443 was voted favorably out of the Committee on House Natural Resources with a 9-0 vote.

TFB **supports** the bill.

**[HB 2684](#)**: Relating to the issuance of oversize or overweight permits for vehicles transporting agricultural commodities during or preceding a disaster.

[Burns, DeWayne \(R\)](#)

HB 2684 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

HB 2684 was voted favorably out of the Committee on House Agriculture & Livestock with a 7-0 vote.

TFB **supports** the bill.

**[HB 2851](#)**: Relating to grant amounts under the Young Farmer Grant Program.

[Burns, DeWayne \(R\)](#)

HB 2851 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

HB 2851 was voted favorably out of the Committee on House Agriculture & Livestock with an 8-0 vote.

TFB **supports** the bill.

**[SB 3](#)**: Relating to an increase in the amount of the exemption of residence homesteads from ad valorem taxation by a school district, an adjustment in the amount of the limitation on school district ad valorem taxes.

[Bettencourt, Paul \(R\)](#)

SB 3 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

SB 3 was Rereferred to the Committee on Senate Finance and was voted favorably out of committee with a 17-0 vote. The bill was passed by the Senate with a 31-0 vote.

TFB **supports** the bill.

**[SB 4](#)**: Relating to the maximum compressed tax rate of a school district.

[Bettencourt, Paul \(R\)](#)

SB 4 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

SB 4 was favorably voted out of the Committee on Senate Finance with 17-0 vote. The Senate passed SB 4 with a 31-0 vote.

TFB **supports** the bill.

**SB 5:** Relating to an exemption from ad valorem taxation of a portion of the appraised value of tangible personal property a person owns that is held or used for the production of income.

[Parker, Tan \(R\)](#)

SB 5 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

SB 5 was favorably voted out of the Senate Committee on Finance with a 16-0 vote. The bill also passed the Senate with a 31-0 vote.

TFB **supports** the bill.

**SB 505:** Relating to imposing an additional fee for the registration of an electric vehicle.

[Nichols, Robert \(R\)](#)

SB 505 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

SB 505 was favorably voted out of the Senate.

TFB **supports** the bill.

**SB 1133:** Relating to a grant program to compensate certain property owners for damages caused by criminal activities.

[Blanco, et al.](#)

SB 1133 was summarized in [a previous edition of the Austin Newsletter](#).

**Update:**

SB 1133 was voted favorably out of the Senate Committee on Border Security with a 5-0 vote.

TFB **supports** the bill.

## **New Bills**

**[SB 1421:](#)** Relating to the effect of nuisance actions, other actions, and governmental requirements on certain agricultural operations.

[Perry, et al.](#)

**Summary:**

This bill addresses the right to farm, as well as frivolous nuisance claims against agricultural operations.

**Right to Farm**

Similar to HB 1750 by Rep. DeWayne Burns (included in a previous issue of the Austin Newsletter), Sen. Perry's bill protects agricultural operations from cities trying to enforce unreasonable city ordinances on farms and ranches. SB 1421 bars cities from restricting or prohibiting an agricultural operation's activities unless there is an "imminent danger" to public health and safety.

**Nuisance Claims**

Similar to Rep. Trent Ashby's HB 2308 (included in a previous issue of the Austin Newsletter), Sen. Perry's bill requires a person bringing a "nuisance or other action to restrain an agricultural operation... must establish each element of the action by clear and convincing evidence." In other words, if a neighbor sues the farmer next to them for nuisance, the neighbor must have particularly strong evidence of the required elements for a successful nuisance claim. This is a higher burden of proof than what is currently required, offering more protection to agricultural producers whose land has been annexed by the city.

**Update:**

SB 1421 was voted favorably out of the Committee on Senate Water, Agriculture, & Rural Affairs with a 9-0 vote.

TFB **supports** SB 1421. (TFB Policy: Real Property Rights Section 150, Page 58, Lines 2-5; Real Property Rights Section 150, Page 59, Lines 27-31; Real Property Rights Section 150, Page 60, Lines 107-108; Real Property Rights Section 150, Page 61, Lines 153-154)

**[HB 4872:](#)** Relating to the reporting and plugging of certain wells.

[Rogers, Glenn \(R\)](#)

**Summary:**

This bill establishes a process "through which a landowner may report... the presence on [their] land" of an oil well that was converted to a P-13 water well, which has not been properly plugged or poses a threat to groundwater or surface water.

HB 4872 sets up a grant program for landowners who make the report above to receive assistance to plug P-13 wells. A landowner may apply for a grant to cover the costs of plugging P-13 wells on their property.

TFB **supports** HB 4872. HB 4872. (TFB Policy: Water Quality Section 156, Page 82, Lines 32-24)

**[SB 2107](#) and [HB 4484](#):** Relating to the ownership of the pore space underlying the surface of land and to the use of that space for the geologic storage of carbon dioxide; authorizing a fee.

[Nichols, Robert \(R\)](#); [Bonnen, Greg \(R\)](#)

### **Summary:**

These companion bills recognize pore space ownership and address the process for storing carbon in underground pores. Further, the bill also discusses liability of carbon storing projects.

### **Pore Space Ownership and Mineral Rights**

These bills recognize decisions by Texas courts that pore space is a part of the surface estate. This clarifies that surface owners have the legal rights to enter into agreements with operators to store carbon under their land.

However, since the mineral estate is the dominant estate under Texas law, the bill specifically set out that mineral interests must be protected or the project may not be done, or the operator would have to enter into a separate agreement with the mineral owners to compensate them for any damages to the mineral interest.

### **Long-term Liability**

Ten years after the carbon has been injected into the pore space, liability may be shifted from the storage operator or storage facility owner to the state of Texas under the oversight of the Railroad Commission. In some instances, it may take 20-30 years to fill a pore space stratum with carbon. The 10-year monitoring period doesn't begin until the pore space is completely filled. Therefore, it could actually be 30-40 years after the project begins until it can be transferred to the state. Before title can be transferred, the operator must prove the carbon is stable. Title of the facility is transferred to the state, and the state would then be liable for any damage due to the storage facility.

### **Carbon Dioxide Storage Trust Fund**

When title is transferred to the state of Texas, a fee is assessed on the operator. Part of this fee goes into the Carbon Dioxide Storage Trust Fund (the Fund). SB 2107 establishes the Fund to cover any liability costs the state may have to pay for any damages caused by issues with the stored carbon migrating or escaping.

## **Forced Integration**

The forced integration provision of the bill allows an operator or pore space owner to petition the Railroad Commission to “integrate” non-consenting pore space owners (landowners) into the project. A petition may not be filed until 60% of the pore space ACREAGE, NOT PORE SPACE OWNERS, is under an agreement with the operator. Pore space owners who are integrated must receive fair compensation since it is a taking of private property for a public purpose.

Sen. Nichols has considered moving the integration threshold to 67% so that two-thirds of the acreage must be under agreement. He is also considering language to require a certain percentage of the pore space owners must be under an agreement before integration may be applied for at the Railroad Commission.

Under the integration provisions, all pore space owners must receive a “fair and reasonable” offer prior to integration. The operator must provide the pore space owners who will be integrated and the Railroad Commission with the agreements that were voluntarily reached with other pore space owners to prove the offers were fair. The pore space owners who will be integrated have the right to enter their own evidence as to what is “fair and reasonable.” They may appeal the decision of the Railroad Commission to district court.

Due to the integration provisions of SB 2107’s effect on the private property rights of pore space owners, Texas Farm Bureau **opposes** SB 2107.

(TFB Policy: Environmental Issues 149, Pg. 57, l. 90; Real Property Rights 150, Pg. 58, l. 2-5; Pg. 60, l. 209-211)

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## **FOLLOW US ON TWITTER!**

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