

## **2015 Texas Legislature Summary: Bills Impacting Agriculture Law**

Now that the 2015 Texas Legislative Session has ended, I wanted to highlight some agricultural-related bills considered in Austin this session. For those of you not familiar with Texas politics, our legislature meets only every-other year. At the close of the session, there are three things that can happen to any bills on the governor's desk: (1) the governor has 20 days to sign the bill, making it law; (2) the governor has 20 days to veto the bill; or (3) if no action is taken within the 20 day time period, the bill becomes law without the governor's signature.

This is, by no means, a comprehensive list of all ag-related bills considered. Nor do the brief summaries included set forth nearly all of the details of these bills. I merely attempted to highlight some of the bills that I think addressed important topics or raised interesting issues. I've broken the bills down categories and provided links to the full text of each bill below.

### **Groundwater**

**HB 3405.** This bill was filed without the Governor's signature. The bill essentially brings a portion of Hays County that was not under any groundwater conservation district authority under the control of the Barton Springs/Edwards Aquifer Conservation District. This bill arose out of controversy surrounding a proposed pipeline project that would involve a well field in then-unregulated Hays County that would then ship the water to the Austin suburbs. This issue has been in the news a great deal. For more info, read articles [here](#) and [here](#). [Bill text [here](#).]

**HB 3163.** This bill provides protection for groundwater conservation district board members by offering immunity from suit for votes and actions taken in their official capacity. The bill was passed by the Legislature and signed by the governor. [Bill text [here](#).]

**HB 2647.** This bill was vetoed by Governor Abbott. the bill would have limited the ability of a groundwater conservation district to curtail groundwater production from wells used for power generation or mining used to fuel power generation. Specifically, the bill would have allowed power generators or mining operations to protest and postpone any curtailments. [Bill text [here](#).]

**HB 1221.** This bill was signed by the governor and now requires that when selling residential real property, a seller's disclosure must include whether any portion of the property is located in a groundwater conservation district or subsidence district. [Bill text [here](#).]

**HB 200.** This bill was signed by the governor and addresses the ability of a property owner to challenge the “desired future conditions” developed by a groundwater conservation district if he or she is concerned the DFC could unreasonably restrict the right to produce groundwater. These challenges will be heard in the State Office of Administrative Hearings (rather than at the Texas Water Development Board) and the bill sets forth the procedure that will be followed. [Bill text [here](#).]

### Surface Water

**HB 2892.** This bill, which did not pass the House, would have imposed requirements for the designation of a waterway as “navigable” under Texas law. Specifically, the bill would have required the TCEQ to have performed a survey, provide notice to neighboring landowners, and hold a public hearing on the matter before making a written finding on navigability. [Bill text [here](#).]

**HB 2031 and HB 30.** These bills, both signed by Governor Abbott, deal with desalination of seawater and/or brackish groundwater. The bills seek to streamline the process for such projects, and require regional water planning groups to consider opportunities for such projects. [Bill text for 2892 [here](#) and 30 [here](#).]

**HB 1665.** This bill applies to property adjoining impoundments of water having a storage capacity of over 5,000 feet. Under the new law, sellers must provide statutory notice language to purchasers regarding the potential for water level fluctuation. Governor Abbott signed the bill. [Bill text [here](#).]

### Oil and Gas

**HB 40.** This was perhaps one of the most widely covered bills in the Legislature this session and was signed by Governor Abbott. The bill, dubbed “the ban on fracking bans” prevents local governments from regulating oil and gas activity in their areas, although certain exceptions to exist. To read my summary of the bill, [click here](#). [Bill text [here](#).]

**HB 1972 and HB 2132.** These bills never made it out of committee, but would have clarified the Texas Water Code 36.117 exempt well provision for rig supply wells includes an exemption for water wells drilled for use in the fracking process. Currently, groundwater conservation districts are inconsistent in their interpretation of the exception and its application to wells drilled for fracking. [Bill text [here](#).]

**HB 2901.** This bill would have required the Texas Railroad Commission to adopt rules and develop an online tracking system to allow landowners to look up complaints filed against operators. The bill never made it out of the House Energy Resources Committee. [Bill text [here](#).]

For more bills of interest to mineral and royalty owners, read John McFarland’s blog post “[Texas Legislature – Bills of Interest to Mineral Owners.](#)”

### **Eminent Domain**

**SB 1812.** This bill was signed by the governor and requires the Comptroller to create a free database of all public or private entities authorized to exercise eminent domain power. The database will contain a host of information about each entity and will be updated annually. [Bill text [here](#).]

**SB 474.** This bill would have allowed landowners to recover attorney’s fees in certain eminent domain proceedings. I wrote a previous summary of the bill and its importance [here](#). The bill died pending in the House Land & Resource Management Committee. [Bill text [here](#).]

**SB 479.** This bill died in the House Business & Industry Committee, but if passed would have strengthened the language in favor of landowners seeking to reacquire property taken by eminent domain if the project does not go forward. Current law provides that if an condemning entity does not make “actual progress” within 10 years of condemnation, the property owner may file with the court to repurchase the property. This bill would have made the test for “actual progress” more stringent. [Bill text [here](#).]

### **Ag Liens**

**SB 1339.** Governor Abbott signed this bill dealing with producers’ agricultural liens on crops. If a producer is to receive payment for selling a crop grown, produced or harvested by the producer has a lien on the amount owed under the contract or for the reasonable value on the date of delivery if not contractual price was set. The lien is perfected when created and continues to be so perfected for 90 days and thereafter if a financing statement is filed within those 90 days. The bill further gives the lien priority over a conflicting security interest other than a cotton ginner’s lien. [Bill text [here](#).]

### **Tax Issues (Property and Sales)**

**HB 1464.** This bill, signed by Governor Abbott, requires additional effort be taken on the part of an appraisal district if the district wants to make a change-of-use determination on agricultural land owned by an landowner over the age of 65. [Bill text [here](#).]

**HB 1990.** This bill died in the Senate Finance Committee. It was related to agricultural land appraisal and would have required districts to distinguish between the degree of intensity required for certain production methods such as organic, sustainable, pastured poultry, rotational grazing, and other uncommon production methods. It also would have added fruit and vegetable production in the definition of “agricultural use.” [Bill text [here](#).]

**SB 140.** This bill was signed by Governor Abbott and allows a sales use tax exemption for telecommunications services that are used for navigation in certain farm and ranch equipment. Eligible equipment must be “exclusively provided for or used for the navigation or equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of food for human consumption, grass, feed for animal life, or other agricultural products to be sold in the regular course of business.” [Bill text [here](#).]

### **Landowner Liability**

**SB 610.** This bill was signed by the Governor and relates to limited liability for agritourism operations. Agritourism entities are not liable for injuries that occur arising out of participation in an agritourism event if proper signage is posted (required language in the Act) or a written agreement is obtained from the participant (required language in the Act). Several exceptions exist that would allow agritourism operations to be held liable, including negligence evidencing disregard for safety, dangerous conditions on the land, dangerous equipment, dangerous animals, failure to train employees, or intentional acts. [Bill text [here](#).]