

By: Goldman

H.B. No. 4623

A BILL TO BE ENTITLED

AN ACT

relating to the consideration of water markets in the regional water planning process.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 16.053, Water Code, is amended by adding Subsection (d-1) and amending Subsection (e) to read as follows:

(d-1) In this section, "water market" means an exchange where water rights and all or a portion of the volumes associated with those rights are sold, purchased, optioned, or leased for the purpose of conveyance, transfer, supply, or forbearance or changing the legal purpose of use. The term does not include a market for wholesale or retail water transactions.

(e) Each regional water planning group shall submit to the development board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the development board under Section 16.051(d);

(2) provides information based on data provided or approved by the development board in a format consistent with the guidelines provided by the development board under Subsection (d);

(2-a) is consistent with the desired future conditions adopted under Section 36.108 for the relevant aquifers located in the regional water planning area as of the most recent deadline for the board to adopt the state water plan under Section 16.051 or, at

1 the option of the regional water planning group, established  
2 subsequent to the adoption of the most recent plan; provided,  
3 however, that if no groundwater conservation district exists within  
4 the area of the regional water planning group, the regional water  
5 planning group shall determine the supply of groundwater for  
6 regional planning purposes; the Texas Water Development Board shall  
7 review and approve, prior to inclusion in the regional water plan,  
8 that the groundwater supply for the regional planning group without  
9 a groundwater conservation district in its area is physically  
10 compatible, using the board's groundwater availability models,  
11 with the desired future conditions adopted under Section 36.108 for  
12 the relevant aquifers in the groundwater management area that are  
13 regulated by groundwater conservation districts;

14 (3) identifies:

15 (A) each source of water supply in the regional  
16 water planning area, including information supplied by the  
17 executive administrator on the amount of modeled available  
18 groundwater in accordance with the guidelines provided by the  
19 development board under Subsections (d) and (f);

20 (B) factors specific to each source of water  
21 supply to be considered in determining whether to initiate a  
22 drought response;

23 (C) actions to be taken as part of the response;

24 (D) existing major water infrastructure  
25 facilities that may be used for interconnections in the event of an  
26 emergency shortage of water; and

27 (E) unnecessary or counterproductive variations

1 in specific drought response strategies, including outdoor  
2 watering restrictions, among user groups in the regional water  
3 planning area that may confuse the public or otherwise impede  
4 drought response efforts;

5 (4) has specific provisions for water management  
6 strategies to be used during a drought of record;

7 (5) includes but is not limited to consideration of  
8 the following:

9 (A) any existing water or drought planning  
10 efforts addressing all or a portion of the region and potential  
11 impacts on public health, safety, or welfare in this state;

12 (B) approved groundwater conservation district  
13 management plans and other plans submitted under Section [16.054](#);

14 (C) all potentially feasible water management  
15 strategies, including but not limited to improved conservation,  
16 reuse, and management of existing water supplies, conjunctive use,  
17 acquisition of available existing water supplies, and development  
18 of new water supplies;

19 (D) protection of existing water rights in the  
20 region;

21 (E) opportunities for and the benefits of  
22 developing regional water supply facilities or providing regional  
23 management of water supply facilities;

24 (F) appropriate provision for environmental  
25 water needs and for the effect of upstream development on the bays,  
26 estuaries, and arms of the Gulf of Mexico and the effect of plans on  
27 navigation;

1 (G) provisions in Section 11.085(k)(1) if  
2 interbasin transfers are contemplated;

3 (H) voluntary transfer of water within the region  
4 using, but not limited to, regional water banks, sales, leases,  
5 options, subordination agreements, and financing agreements;

6 (I) emergency transfer of water under Section  
7 11.139, including information on the part of each permit, certified  
8 filing, or certificate of adjudication for nonmunicipal use in the  
9 region that may be transferred without causing unreasonable damage  
10 to the property of the nonmunicipal water rights holder; and

11 (J) opportunities for and the benefits of  
12 developing large-scale desalination facilities for:

13 (i) marine seawater that serve local or  
14 regional entities; and

15 (ii) brackish groundwater that serve local  
16 or regional brackish groundwater production zones identified and  
17 designated under Section 16.060(b)(5);

18 (6) identifies river and stream segments of unique  
19 ecological value and sites of unique value for the construction of  
20 reservoirs that the regional water planning group recommends for  
21 protection under Section 16.051;

22 (7) assesses the impact of the plan on unique river and  
23 stream segments identified in Subdivision (6) if the regional water  
24 planning group or the legislature determines that a site of unique  
25 ecological value exists;

26 (8) describes the impact of proposed water projects on  
27 water quality;

1 (9) includes information on:

2 (A) projected water use and conservation in the  
3 regional water planning area; and

4 (B) the implementation of state and regional  
5 water plan projects, including water conservation strategies,  
6 necessary to meet the state's projected water demands;

7 (10) if the regional water planning area has  
8 significant identified water needs, provides a specific assessment  
9 of the potential for aquifer storage and recovery projects to meet  
10 those needs;

11 (11) sets one or more specific goals for gallons of  
12 water use per capita per day in each decade of the period covered by  
13 the plan for the municipal water user groups in the regional water  
14 planning area; ~~and~~

15 (12) assesses the progress of the regional water  
16 planning area in encouraging cooperation between water user groups  
17 for the purpose of achieving economies of scale and otherwise  
18 incentivizing strategies that benefit the entire region; and

19 (13) describes opportunities for the creation and  
20 establishment of local or regional water markets and considers the  
21 potential for voluntary transfer of water in the region using those  
22 markets.

23 SECTION 2. This Act takes effect September 1, 2023.