

BILL ANALYSIS

C.S.S.B. 3
By: Armbrister
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

C.S.S.B. 3 is a comprehensive, omnibus water bill that builds upon the progressive changes in Texas' water law and water policy initiated by S.B. 1, 75th Legislature, Regular Session, 1997, and S.B. 2, 77th Legislature, Regular Session, 2001. C.S.S.B. 3 advances water management in the state by moving forward from the past 10 years of extensive regional and state water planning, to actual implementation of water management strategies, including strategies to ensure adequate environmental flows and water infrastructure financing.

C.S.S.B. 3 address major water-related challenges currently facing Texas, including: the need to ensure the viability of our rivers, streams, bays, estuaries; promoting land stewardship policy and strategies; water conservation; historic use for groundwater district permitting; water financing; creation of Victoria County Groundwater Conservation District; Edwards Aquifer Authority; and creation of Val Verde County Groundwater Conservation District. The six substantive Articles in C.S.S.B. 3 address Environmental Flows; Water Conservation and Planning; Financing of Water Projects; Creation of Victoria County Groundwater Conservation District; Edwards Aquifer Authority; and Creation of Val Verde County Groundwater Conservation District.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Environmental Flows Commission in SECTION 1.08 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1.17 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2.07 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 2.09 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Water Development Board and Texas Commission on Environmental Quality in SECTION 2.10 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2.17 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2.28 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Legislative Oversight Committee on Water Financing in SECTION 3.01 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 3.06 of this bill.

ANALYSIS

SECTION BY SECTION ANALYSIS

ARTICLE 1. ENVIRONMENTAL FLOWS

SECTION 1.01. Amends the heading to Section 5.506, Water Code, to read as follows:

Sec. 5.506. EMERGENCY SUSPENSION OF PERMIT CONDITION RELATING TO, AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR, BENEFICIAL INFLOWS TO AFFECTED BAYS AND ESTUARIES AND INSTREAM USES.

SECTION 1.02. Amends Section 5.506, Water Code, by adding Subsection (a-1) and amending Subsections (b) and (c), as follows:

(a-1) Authorizes state water that is set aside by the Texas Commission on Environmental Quality (TCEQ) to meet the needs for freshwater inflows to affected bays, estuaries, and instream uses under Section 11.1471(a)(2) to be made available temporarily for other essential beneficial uses if TCEQ finds that an emergency exists that cannot practically be resolved in another way.

(b) Requires TCEQ to give written notice of the proposed action, rather than suspension, to the Texas Parks and Wildlife Department (TPWD) before TCEQ suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1). Requires TCEQ to give TPWD an opportunity to submit comments on the proposed action, rather than suspension, for a period of 72 hours from receipt of the notice and requires TCEQ to consider those comments before issuing an order implementing the proposed action, rather than imposing suspension.

(c) Authorizes TCEQ to suspend a permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) without notice except as required by Subsection (b).

SECTION 1.03. Amends Section 5.701(j), Water Code, to provide that a fee is not required for a water right that is deposited into the Texas Water Trust.

SECTION 1.04. Amends Section 11.002, Water Code, by adding Subdivisions (15), (16), (17), (18), and (19) to define "environmental flow analysis," "environmental flow regime," "environmental flow standards," "flows commission," and "science advisory committee."

SECTION 1.05. Amends Section 11.023(a), Water Code, to authorize state water to be appropriated, stored, or diverted for specific uses, to the extent that state water has not been set aside by TCEQ under Section 11.1471(a)(2) to meet downstream instream flow needs or freshwater inflow needs.

SECTION 1.06. Amends Section 11.0235, Water Code, by amending Subsections (c) and (e) and adding Subsections (d-1), (d-2), (d-3), (d-4), (d-5), and (f), as follows:

(c) Provides that the legislature has expressly required TCEQ, while balancing all other public interests to consider and, to the extent practicable, provide for the freshwater inflows and instream flows necessary to maintain the viability of the state's streams, rivers, bay, and estuary systems in TCEQ's regular granting of permits for the use of state waters. Requires all permit conditions relating to freshwater inflows to affected bays, estuaries, and instream flow needs, as an essential part of the state's environmental flows policy, to be subject to temporary suspension if necessary for water to be applied to essential beneficial uses during emergencies.

(d-1) Requires the state to have a process with specific timelines for prompt action to address environmental flow issues in the state's major basin and bay systems, especially those systems in which unappropriated water is still available, based on legislative

findings that provide certainty in water management and development and provide adequate protection of the state's streams, rivers, bays, and estuaries.

(d-2) Sets forth legislative findings regarding basins in which water is available for appropriation and those in which the unappropriated water will be set aside for instream flow and freshwater inflow protection and recommendations for TCEQ's plan of action.

(d-3) Sets forth legislative findings regarding limitations on freshwater inflow needs for bays and estuaries, proposed state improvements, and more extensive reviews and examinations of program details.

(d-4) Sets forth legislative findings regarding the management of water to meet instream flow and freshwater inflow needs, to be evaluated on a regular basis and adapted to reflect scientific improvements and future changes, and the development of management strategies for specific environmental flow needs.

(d-5) Sets forth legislative findings regarding recommendations for state action to protect instream flows and freshwater inflows through a regional consensus-based approach involving balanced representation throughout the state.

(e) Provides that pressures and demands on water resources require priorities to be effectively addressed by detailing the manner in which environmental flow standards are to be developed using the environmental studies and determine the manner in which those standards will be integrated into the regional water planning and water permitting process.

(f) Sets forth legislative acknowledgement of the need for effective implementation of the approach provided by this chapter in order to protect instream flows and freshwater inflows, thus requiring more effective water rights administration and enforcement systems than currently available.

SECTION 1.07. Amends the heading to Section 11.0236, Water Code, to read as follows:

Sec. 11.0236. ENVIRONMENTAL FLOWS COMMISSION.

SECTION 1.08. Amends Section 11.0236, Water Code, by amending Subsections (a)-(c), (e)-(j), (n), and (o), and adding Subsection (p), as follows:

(a) Sets forth the creation of the Environmental Flows Commission (flows commission), in place of the Study Commission on Water for Environmental Flows (study commission).

(b) Sets forth members of the flows commission. Deletes existing text requiring additional members serving on the study commission.

(c) Sets forth requirements for members appointed to positions under Subsection (b)(1). Deletes existing text regarding additional requirements for membership.

(e) Provides that each member of the flows commission serves at the will of the person who appointed the member.

(f) through (i) Makes conforming changes.

(j) Requires the flows commission, in evaluating the options for providing adequate environmental flows, to take notice of the strong public policy imperative that exists in this state recognizing that environmental flows are important to the biological health of our public and private lands, streams and rivers, and bay and estuary systems and are high priorities in the water management process. Requires the flows commission to specifically address ways that the ecological soundness of those systems will be ensured in the water administration, enforcement, and allocation process and appropriate methods to encourage persons voluntarily to convert reasonable amounts of existing water rights

to use for environmental flow protection, temporarily or permanently. Makes conforming and nonsubstantive changes.

(n) Authorizes the flows commission to adopt rules, procedures, and policies as needed to administer this section, to implement its responsibilities, and to exercise its authority under Sections 11.02361 and 11.02362.

(o) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the flows commission.

(p) Requires the flows commission to issue and promptly deliver to specific government officials, not later than December 1, 2006, and every two years thereafter, copies of a report summarizing specific hearings, proposed legislation, progress made in the implementation of Sections 11.02361 and 11.02362, and any other findings and recommendations of the flows commission. Deletes existing text abolishing the study commission and providing for the expiration of this section.

SECTION 1.09. Amends Subchapter B, Chapter 11, Water Code, by adding Sections 11.02361 and 11.02362, as follows:

Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE ADVISORY COMMITTEE. (a) Provides that the Texas Environmental Flows Science Advisory Committee (science advisory committee) consists of at least five but not more than nine members appointed by the flows commission.

(b) Requires the flows commission to appoint persons who will provide an objective perspective and diverse technical experience in specific fields pertinent to the evaluation of environmental flows to the science advisory committee.

(c) Provides that members of the science advisory committee serve five-year terms expiring March 1. Provides that a vacancy on the science advisory committee is filled by appointment by the co-presiding officers of the flows commission for the unexpired term.

(d) Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of the science advisory committee.

(e) Requires the science advisory committee to serve as an objective scientific body to advise and make recommendations to the flows commission on issues relating to the science of environmental flow protection and develop recommendations to help provide overall direction, coordination, and consistency relating to specific issues concerning environmental flows.

(f) Requires TCEQ, TPWD, and the Texas Water Development Board (TWDB), to assist the flows commission in assessing the extent to which the recommendations of the science advisory committee are considered and implemented, to provide written reports to the flows commission, at intervals determined by the flows commission, that describe the actions taken by each agency in response to each recommendation, those recommendations not implemented, and reasons for it not being implemented.

Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME RECOMMENDATIONS. (a) Requires the flows commission, no later than November 1, 2005, and for the purposes of this section, to define the geographical extent of each river basin and bay system in the state for the purpose of developing environmental flow regime recommendations under this section and adoption of environmental flow standards under Section 11.1471.

(b) Requires the flows commission to give priority in descending order to the following river basin and bay systems of the state for the purpose of developing

environmental flow regime recommendations and adopting environmental flow standards:

- (1) the river basin and bay system consisting of the Trinity and San Jacinto Rivers and Galveston Bay and the river basin and bay system consisting of the Sabine and Neches Rivers and Sabine Lake Bay;
- (2) the river basin and bay system consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the river basin and bay system consisting of the Guadalupe, San Antonio, and Aransas Rivers, and Copano, Aransas, and San Antonio Bays; and
- (3) the river basin and bay system consisting of the Nueces River and Corpus Christi and Baffin Bays, the river basin and bay system consisting of the Rio Grande, the Rio Grande estuary, the Lower Laguna Madre, and the Brazos River and its associated bay and estuary system.

(c) Requires that for the river basin and bay systems listed in Subsection (b)(1):

- (1) the flows commission appoint the basin and bay area stakeholders committee not later than November 1, 2005;
- (2) the basin and bay area stakeholders committee establish a basin and bay expert science team not later than March 1, 2006;
- (3) the basin and bay expert science team finalize environmental flow regime recommendations and submit them to the basin and bay area stakeholders committee, the flows commission, and TCEQ not later than March 1, 2007;
- (4) the basin and bay area stakeholders committee submit to TCEQ its comments on and recommendations regarding the basin and bay expert science team's recommended environmental flow regime not later than September 1, 2007; and
- (5) TCEQ adopt the environmental flow standards as provided by Section 11.1471 not later than September 1, 2008.

(d) Requires the flows commission to appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(2), no later than September 1, 2006, and those river basin and bay systems listed in Subsection (b)(3) no later than September 1, 2007. Requires the flows commission to establish a schedule for the performance of the tasks listed in Subsection (c)(2)-(5) with regard to the river basin and bay systems listed in Subsection (b)(2) and (3) that will result in the adoption of environmental flow standards for that river basin and bay system by TCEQ, as soon as is reasonably possible. Requires each basin and bay area stakeholders committee and basin and bay expert science team for a river basin and bay system listed in Subsection (b)(2) or (3) to make recommendations to the flows commission with regard to the schedule applicable to that river basin and bay system. Requires the flows commission to consider the recommendations of the basin and bay area stakeholders committee and basin and bay expert science team, as well as coordinate with, and give appropriate consideration to the recommendations of, TCEQ, TPWD, and the TWDB in establishing the schedule.

(e) Requires the flows commission, for a river basin and bay system or a river basin that does not have an associated bay system in this state not listed in Subsection (b), to establish a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards. Requires the flows commission to develop the schedule in consultation with TCEQ, TPWD, TWDB, and the pertinent basin and bay area stakeholders

committee and basin and bay expert science team. Authorizes the flows commission, on its own initiative or on request, to modify a schedule established under this subsection to be more responsive to particular circumstances, local desires, changing conditions, or time-sensitive conflicts. Provides that this subsection does not prohibit an effort to develop information on environmental flow needs and ways in which those needs can be met by a voluntary consensus-building process, in a river basin and bay system for which the flows commission has not yet established a schedule for the development of environmental flow regime recommendations.

(f) Requires the flows commission to appoint a basin and bay area stakeholders committee for each river basin and bay system in this state for which a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards is specified by or established under Subsection (c), (d), or (e). Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay area stakeholders committee. Requires each committee to consist of at least 17 specific members representing appropriate enumerated stakeholders.

(g) Provides that members of a basin and bay area stakeholders committee serve five-year terms expiring March 1. Requires the remaining members of the committee, if a vacancy occurs on a committee, to appoint a member to serve the remainder of the unexpired term by majority vote.

(h) Requires meetings of the basin and bay area stakeholders committee to be open to the public.

(i) Requires each basin and bay area stakeholders committee to establish a basin and bay expert science team for the river basin and bay system for which the committee is established. Requires establishment of the basin and bay expert science team within six months of committee establishment. Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay expert science team. Requires each basin and bay expert science team to be composed of technical experts with special expertise in the river basin and bay system or regarding the development of environmental flow regimes. Authorizes a person to serve as a member of more than one basin and bay expert science team at the same time.

(j) Provides that the members of the basin and bay expert science team serve five-year terms expiring April 1. Provides that a vacancy on a basin and bay expert science team is filled by appointment by the pertinent basin and bay area stakeholders committee to serve the remainder of the unexpired term.

(k) Requires the science advisory committee to appoint one of its members to serve as a liaison to each basin and bay expert science team to facilitate coordination and consistency in environmental flow activities throughout the state. Requires TCEQ, TPWD, and TWDB to provide technical assistance to each basin and bay expert science team including information about the studies conducted under Sections 16.058 (Collection of Bays and Estuaries Data: Conduct of Studies) and 16.059 (Collection of Instream Flow Data: Conduct of Studies), and authorizes them to serve as nonvoting members of the basin and bay expert science team to facilitate the development of environmental flow regime recommendations.

(l) Requires meetings of a basin and bay expert science team, where reasonably practicable, to be open to the public.

(m) Requires each basin and bay expert science team to develop environmental flow analyses and a recommended environmental flow regime for the river basin and bay system for which the team is established through a collaborative process designed to achieve a consensus. Requires the science team, in developing the

analyses and recommendations, to consider all reasonably available science, without regard to the need for the water for other uses, and requires the recommendations to be based solely on the best science available. Requires the basin and bay expert science team environmental flow regime recommendations for the Rio Grande below Fort Quitman to exclude any uses attributable to Mexican water flows.

(n) Requires each basin and bay expert science team to submit its environmental flow analyses and environmental flow regime recommendations to the pertinent basin and bay area stakeholders committee, the flows commission, and TCEQ in accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e). Prohibits the basin and bay area stakeholders committee and flows committee from changing the environmental flow analyses or environmental flow regime recommendations of the basin and bay expert science team.

(o) Requires each basin and bay area stakeholders committee to review the environmental flow analyses and environmental flow regime recommendations submitted by the committee's basin and bay expert science team and consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the pertinent river basin and bay system. Requires the basin and bay area stakeholders committee for the Rio Grande to consider the water accounting requirements for any international water sharing treaty, minutes, and agreement applicable to the Rio Grande and the effects on allocation of water by the Rio Grande water master in the middle and lower Rio Grande. Prohibits the Rio Grande basin and bay expert science team from recommending any environmental flow regime that would result in a violation of a treaty or court decision. Requires the basin and bay area stakeholders committee to develop recommendations regarding environmental flow standards and strategies to meet the environmental flow standards and submit those recommendations to TCEQ and to the flows commission in accordance with the applicable schedule specified or established under Subsection (c), (d), or (e). Requires the basin and bay area stakeholders, in developing its recommendations, to operate on a consensus basis to the maximum extent possible.

(p) Requires each basin and bay area stakeholder committee, with the assistance of the pertinent basin and bay expert science team, in recognition of the importance of adaptive management, after submitting its recommendations regarding environmental flow standards and strategies to meet the environmental flow standards to TCEQ, to prepare and submit a work plan for approval by the flows commission. Sets forth content requirements for the work plan.

(q) Requires the flows commission, with input from the science advisory committee, in accordance with the applicable schedule specified or established under Subsection (c), (d), or (e), to review the environmental flow analyses and environmental flow regime recommendations submitted by each basin and bay expert science team. Requires the flows commission, if appropriate, to submit comments on the analyses and recommendations to TCEQ for use by TCEQ in adopting rules under Section 11.1471. Requires comments to be submitted not later than six months after the date of receipt of the recommendations.

(r) Authorizes an estuary advisory council, in the event TCEQ, by permit or order, has established said council, to continue in full force and effect.

SECTION 1.10. Amends Sections 11.0237(a) and (b), Water Code, to authorize TCEQ to approve an application to amend an existing permit or certificate of adjudication to change the use or to add a use for instream flows dedicated to environmental needs of bay and estuary flows. Provides that in addition to specific sections previously listed, this section does not alter TCEQ's obligations under Sections 11.042(c), 11.1471, 11.150, and 11.152.

SECTION 1.11. Amends Section 11.082(b), Water Code, to authorize the state to seek those penalties [described in Subsection (a)] regardless of whether a watermaster has been appointed for the water division, river basin, or segment of a river basin where the unlawful use [of state water] is alleged to have occurred. Makes a nonsubstantive change.

SECTION 1.12. Amends Section 11.0841, Water Code, by adding Subsection (c), as follows:

(c) Provides that for purposes of this section, TPWD has:

(1) the rights of a holder of a water right that is held in the Texas Water Trust, including the right to file suit in a civil court to prevent the unlawful use of such a right; and

(2) the right to act in the same manner that a holder of a water right may act to protect the holder's rights in seeking to prevent any person from appropriating water in violation of a set-aside established by the commission under Section 11.1471 to meet instream flow needs or freshwater inflow needs; and

(3) the right to file suit in a civil court to prevent the unlawful use of a set-aside established under Section 11.1471.

SECTION 1.13. Amends Section 11.0842(a), Water Code, to authorize TCEQ to assess an administrative penalty for a violation relating to a water division or a river basin or segment of a river basin regardless of whether a watermaster has been appointed for the water division or river basin or segment of the river basin. Makes a nonsubstantive change.

SECTION 1.14. Amends Section 11.0843(a), Water Code, to authorize the executive director of TCEQ, or a person designated by the executive director, including a watermaster or the watermaster's deputy, upon witnessing a violation of this chapter, a rule, order, or a water right issued under this chapter, to issue the alleged violator a filed citation alleging that a violation has occurred and providing the alleged violator with specific options. Makes nonsubstantive changes.

SECTION 1.15. Amends Section 11.134(b), Water Code, to require TCEQ to grant the application only if the proposed appropriation considers any applicable environmental flow standards established under Section 11.1471. Makes a nonsubstantive change.

SECTION 1.16. Amends Section 11.147, Water Code, by amending Subsections (b), (d), and (e) and adding Subsections (e-1), (e-2), and (e-3) as follows:

(b) Requires TCEQ, for permits issued within an area that is 200 river miles of the coast, to commence from the mouth of the river thence inland, to include in the permit any conditions considered necessary to maintain freshwater inflows to any affected bay and estuary system, to the extent practicable when considering all public interests and the studies mandated by Section 16.058 as evaluated under Section 11.1491. Deletes existing text regarding conditions necessary to maintain beneficial inflows.

(d) Requires TCEQ, in determining what conditions to include in the permit under this subsection, to consider the studies mandated by Section 16.059 and any water quality assessment performed under Section 11.150.

(e) Requires TCEQ, in determining what conditions to include in the permit under this subsection, to consider any assessment performed under Section 11.152.

(e-1) Requires any permit for a new appropriation of water or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted to include a provision allowing TCEQ to adjust the conditions included in the permit or water right to provide for protection of instream flows or freshwater inflows. Requires TCEQ to adjust the conditions upon determining, through an expedited public comment process, that such an adjustment is appropriate to achieve compliance with

applicable environmental flow standards adopted under Section 11.1471. Provides that the adjustment:

(1) in combination with any previous adjustments made under this subsection, is prohibited from increasing the amount of the pass-through or release requirement for the protection of instream flows or freshwater inflows by more than 12.5 percent of the annualized total of that requirement contained in the permit as issued or the water right amended;

(2) is required to be based on appropriate consideration of the priority dates and diversion locations of any other water rights grants in the same river basin that are subject to adjustment under this subsection; and

(3) is required to be based on appropriate consideration of any voluntary contributions to the Texas Water Trust that contribute toward meeting the environmental flows standards.

(e-2) Requires any water right holder making a voluntary contribution to the Texas Water Trust to be entitled to appropriate credit of such benefits against adjustment of his water right pursuant to Subsection (e-1)(1).

(e-3) Requires TCEQ, notwithstanding Subsections (b)-(e), for the purpose of determining the environmental flow conditions necessary to maintain freshwater inflows to an affected bay and estuary system, existing instream uses and water quality of a stream or river, or fish and aquatic wildlife habitats, to apply any applicable environmental flow standard, including environmental flow set-aside, adopted under Section 11.1471 instead of considering the factors specified by those subsections.

SECTION 1.17. Amends Subchapter D, Chapter 11, Water Code, by adding Section 11.1471, as follows:

Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES. (a) Requires TCEQ, by rule, to:

(1) adopt appropriate environmental flow standards for each river basin and bay system in this state that are adequate to support a sound ecological environment, to the maximum extent reasonable considering other public interests and other relevant factors;

(2) establish an amount of unappropriated water, if available, to be set aside to satisfy the environmental flow standards to the maximum extent reasonable when considering human water needs; and

(3) establish procedures for implementing an adjustment of the conditions included in a permit or an amended water right as provided by Section 11.147(e-1) and (e-2).

(b) Requires TCEQ, in adopting environmental flow standards for a river basin and bay system under Subsection (a)(1), to consider specific factors regarding the definition of the geographical extent of the river basin and bay system and the definition and designation of the river basin by the TWDB under Section 16.051(c), schedule for the adoption of environmental flow standards, the environmental flow analyses and the recommended environmental flow regime developed by the applicable basin and bay expert science team, recommendations and strategies, specific characteristics of the river basin and bay system, economic factors, the human and other competing water needs in the river basin and bay system, reasonably available scientific information, and any other appropriate information.

(c) Requires environmental flow standards adopted under Subsection (a)(1) to consist of a schedule of flow quantities, reflecting seasonal and yearly fluctuations that may vary geographically by specific location in a river basin and bay system.

(d) Prohibits TCEQ, as provided by Section 11.23, from issuing a permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted if the issuance of the permit or amendment would impair an environmental flow set-aside established under Subsection (a)(2). Requires a permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted that is issued after the adoption of an applicable environmental flow set-aside to contain appropriate conditions to ensure protection of the environmental flow set-aside.

(e) Requires an environmental flow set-aside established under Subsection (a)(2) for a river basin and bay system other than the middle and lower Rio Grande to be assigned a priority date corresponding to the date TCEQ receives environmental flow regime recommendations from the applicable basin and bay expert science team and be included in the appropriate water availability models in connection with an application for a permit for a new appropriation or for an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted.

(f) Authorizes an environmental flow standard or environmental flow set-aside adopted under Subsection (a) to be altered by TCEQ in a rulemaking process undertaken in accordance with a schedule established by TCEQ. Prohibits TCEQ's schedule from providing for the rulemaking process to occur more frequently than once every 10 years unless the applicable work plan approved by the flows commission under Section 11.02362(p) provides for a periodic review under that section to occur more frequently. Authorizes TCEQ, in that event, to provide for the rulemaking process to be undertaken in conjunction with the periodic review upon determining that schedule to be appropriate.

SECTION 1.18. Amends the heading to Section 11.148, Water Code, to read as follows:

Sec. 11.148. EMERGENCY SUSPENSION OF PERMIT CONDITIONS AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR ENVIRONMENTAL FLOWS.

SECTION. 1.19. Amends Section 11.148, Water Code, by adding Subsection (a-1) and amending Subsections (b) and (c), as follows:

(a-1) Authorizes state water that is set aside by TCEQ to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471(a)(2) to be made available temporarily for other essential beneficial uses, if TCEQ finds that an emergency exists that cannot practically be resolved in another way.

(b) Requires TCEQ, before suspending a permit condition under Subsection (a) or making water available temporarily under Subsection (a-1), to give written notice to TPWD of the proposed action, rather than suspension. Requires TCEQ to give TPWD an opportunity to submit comments on the proposed action within 72 hours from the time TCEQ is required to consider those comments before issuing its order implementing the proposed action. Makes conforming changes.

(c) Authorizes TCEQ to suspend the permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) without notice to any other interested party other than TPWD as provided by Subsection (b).

SECTION 1.20. Amends Section 11.1491(a), Water Code, to require publication of reports completed under this section to be submitted for comment to TCEQ, TPWD, the flows commission, the science advisory committee, and any applicable basin and bay area stakeholders

committee and basin and bay expert science team. Makes conforming and nonsubstantive changes.

SECTION 1.21. Amends Section 11.329(g), Water Code, to prohibit TCEQ from assessing costs under this section against a holder of a water right placed in the Texas Water Trust for a term of at least 20 years. Deletes existing text regarding this subsection affecting the fees assessed on a water right holder by TCEQ under specific chapters.

SECTION 1.22. Amends Section 11.404(e), Water Code, to prohibit the court from assessing costs and expenses under this section against a holder of a water right placed in the Texas Water Trust for a term of at least 20 years.

SECTION 1.23. Amends Subchapter I, Chapter 11, Water Code, by adding Section 11.4531, as follows:

Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) Requires the executive director of TCEQ, for each river basin or segment of a river basin for which the executive director appoints a watermaster under this subchapter, to appoint a watermaster advisory committee consisting of at least nine but not more than 15 members. Requires a member of the advisory committee to be a holder of a water right or a representative of a holder of a water right in the river basin or segment of the river basin for which the watermaster is appointed. Requires the executive director, in appointing members to the advisory committee, to consider geographic representation, amount of water rights held, different types of holders of water rights and users, including water districts, municipal suppliers, irrigators, and industrial users, and experience and knowledge of water management practices.

(b) Provides that an advisory committee member is not entitled to reimbursement of expenses or to compensation.

(c) Provides that an advisory committee member serves a two-year term expiring August 31 of each odd-numbered year and holds office until a successor is appointed.

(d) Requires the advisory committee to meet within 30 days after the date the initial appointments have been made and to select a presiding officer to serve a one-year term. Requires the committee to meet regularly as necessary.

(e) Requires the advisory committee to make specific recommendations, reviews, and comments, and perform other advisory duties to the executive director of TCEQ.

SECTION 1.24. Amends Section 11.454, Water Code, as follows:

Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER. Provides that Section 11.327 applies to the duties and authority of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as the section applies to the duties and authority of a watermaster appointed for a water division under Subchapter G. Deletes existing text regarding duties of a watermaster.

SECTION 1.25. Amends Section 11.455, Water Code, as follows:

Sec. 11.455. New heading: COMPENSATION AND EXPENSES OF WATERMASTER. (a) Provides that Section 11.329 applies to the payment of the compensation and expenses of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as that section applies to the payment of the compensation and expenses of a watermaster appointed for a water division under Subchapter G.

(b) Requires the executive director of TCEQ to deposit the assessments collected under this section to the credit of the watermaster fund.

(c) Authorizes money deposited under this section to the credit of the watermaster fund to be used only for the purposes specified by Section 11.3291 with regard to the watermaster operation under this subchapter with regard to which the assessments were collected. Deletes existing text authorizing TCEQ to assess the costs of the watermaster against all persons who hold water rights in the river basin or segment of the river basin under the watermaster's jurisdiction.

SECTION 1.26. Amends Subchapter F, Chapter 15, Water Code, by adding Section 15.4063, as follows:

Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. Authorizes TWDB to authorize the use of money in the research and planning fund for specific compensations and contracts.

SECTION 1.27. Amends Section 15.7031, Water Code, by amending Subsection (c) and adding Subsection (e), as follows:

(c) Requires the dedication of any water rights placed in trust to be reviewed and approved by TCEQ, in consultation with TWDB, TPWD, and the flows commission. Authorizes the Department of Agriculture and the basin and bay area stakeholders committee and basin and bay expert science team established under Section 11.02362 for the river basin and bay system to which the water right pertains to provide input to TCEQ, as appropriate, during the review and approval process for dedication of water rights.

(e) Provides that while a water right is held in the trust, the water authorized for beneficial use under the terms of the water right is considered to be held for instream flows, water quality, fish and wildlife habitat, bay and estuary inflows, or other environmental uses without the need for a permit amendment. Requires the use of the water right or portion of the water right withdrawn, after the water right is withdrawn in whole or in part from the trust, to be in accordance with the terms of the water right.

SECTION 1.28. Amends Section 16.059(d), Water Code, to require the priority studies to be completed not later than December 31, 2014, rather than 2010.

SECTION 1.29. Reenacts and amends Section 26.0135(h), Water Code, as amended by Chapters 234 and 965, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(h) Provides that irrigation water rights, non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to the assessment [to recover the costs of administering water quality management programs]. Makes nonsubstantive changes.

SECTION 1.30. Repealer: Sections 11.0236(d) (referring to member appointments under Subsection (b)(3)); (k) (referring to duties of study commission); (l) (referring to study commission's report summary); (m) (referring to delivery of copies to members of the legislature); Section 11.0237(c) (referring to expiration date of section); and Section 11.1491(b) (referring to creation and establishment of advisory council for data collection and studies), Water Code.

SECTION 1.31. Abolishes the Study Commission on Water for Environmental Flows on the effective date of this Act.

SECTION 1.32. (a) Requires the governor, lieutenant governor, and speaker of the house of representatives to appoint the initial members of the Environmental Flows Commission as provided by Section 11.0236, Water Code, as amended by this article, as soon as practicable on or after the effective date of this Act.

(b) Requires the initial members of the Environmental Flows Commission, as soon as practicable after taking office, to appoint the initial members of the Texas Environmental Flows Science Advisory Committee as provided by Section 11.02361, Water Code, as added by this article. Provides that the terms of the initial members of the committee expire on March 1, 2010.

(c) Requires the Environmental Flows Commission to appoint the members of each basin and bay area stakeholders committee as provided by Section 11.02362, Water Code, as added by this article. Provides that the terms of the initial members of each committee expire March 1 of the fifth year that begins after the year in which the initial appointments are made.

(d) Requires each basin and bay area stakeholders committee to appoint the members of the basin and bay expert science team for the river basin and bay system for which the committee is established as provided by Section 11.02362, Water Code, as added by this article. Provides that the terms of the initial members of each committee expire March 1 of the fifth year that begins after the year in which the initial appointments are made.

(e) Requires the executive director of TCEQ to appoint the members of the watermaster advisory committee under Section 11.4531, Water Code, as added by this article, for each river basin or segment of a river basin for which the executive director appoints a watermaster under Subchapter I, Chapter 11, Water Code. Provides that the terms of the initial members of the committee expire August 31 of the first odd-numbered year that begins after the year in which the initial appointments are made.

SECTION 1.33. Provides that the changes in law made by this article relating to a permit for a new appropriation of water or to an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted apply to a permit or amendment for which an application is pending with TCEQ on the effective date of this article or is filed with TCEQ on or after that date.

ARTICLE 2. WATER CONSERVATION PLANNING

SECTION 2.01. Amends Section 1.003, Water Code, as follows:

Sec. 1.003. PUBLIC POLICY. Provides that it is the public policy of the state to provide for the conservation and development of the state's natural resources, including the stewardship of public and private lands to benefit waters of the state.

SECTION 2.02. Amends Subchapter A, Chapter 1, Water Code, by adding Section 1.004, as follows:

Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP. Sets forth legislative findings and policy regarding voluntary land stewardship. Defines "land stewardship."

SECTION 2.03. Amends Section 11.002, Water Code, by adding Subdivision (20), to define "best management practices."

SECTION 2.04. Amends Section 11.0235(b), Water Code, to provide that the legislature encourages responsible water and land stewardship to benefit waters of the state as defined by Section 26.001.

SECTION 2.05. Amends Section 11.173(b), Water Code, to provide that a permit, certified filing, or certificate of adjudication or a portion of a permit, certified filing, or certificate of adjudication is exempt from cancellation under Subsection (a), to the extent the nonuse resulted from the implementation of water conservation measures under a water conservation plan submitted by the holder of the permit, certified filing, or certificate of adjudication as evidenced by implementation reports submitted by the holder.

SECTION 2.06. Amends Subchapter E, Chapter 13, Water Code, by adding Section 13.146, as follows:

Sec. 13.146. WATER CONSERVATION PLAN. Requires TCEQ to require a retail public utility that provides potable water service to a population of 3,300 or more to submit to the executive administrator of TWDB, a water conservation plan based on specific targets and goals developed by the retail public utility and using appropriate best management practices, as defined by Section 11.002, or other water conservation strategies. Requires the population served by a retail public utility, for the purposes of this section, to be determined on the basis of the population estimates contained in the most recent regional water plan adopted for the regional water planning area in which the retail public utility's service area is located.

SECTION 2.07. Amends Section 13.502, Water Code, by adding Subsections (f) through (i).

(f) Requires that before the executive director may approve a request to change from sub-metered billing to allocated billing, property owners or managers must submit documentation to the Texas Commission on Environmental Quality (TCEQ) in support of the request. The executive director shall assign commission staff knowledgeable in water billing issues to review the documentation and make a recommendation to the executive director of the commission.

In reviewing the documentation, the commission shall consider whether needed repairs or problems are routine in nature or are extraordinary and constitute good cause for the billing change. The executive director may not approve the request unless the property owner or manager demonstrates that all reasonable steps were taken to ensure the proper installation and maintenance of the sub-metering system and that the circumstances reasonably justify the change.

(g) The commission by rule shall require a property owner or manager requesting a billing change to provide timely notice to affected tenants that includes information relating to the manner in which a tenant may comment to the commission on the request.

(h) If the executive director does not approve a request for a billing change, the executive director shall provide to the property owner or manager an explanation of why the request was not approved.

(i) A property owner or manager who submits a request for a billing change must submit with the request any relevant information including, if the request is based on equipment failures, bids for replacement, copies of repair or service invoices, and an explanation of why the equipment failed before its expected useful life. If the request is based on meter reading or billing problems, copies of resident complaints, correspondence with billing companies, correspondence from the commission regarding consumer complaints and an affidavit by the property owner or manager regarding efforts to find alternative service providers should be provided.

SECTION 2.08. Amends Section 15.102(b), Water Code, to authorize the water loan assistance fund to be used by TWDB to provide grants, for water conservation projects.

SECTION 2.09. Amends Section 16.053(h), Water Code, by adding Subdivisions (10), (11), (12), and (13), as follows:

(10) Authorizes the regional water planning group to amend the regional water plan after the plan has been approved by TWDB. Provides that Subdivisions (1)-(9) apply to an amendment to the plan in the same manner as those subdivisions apply to the plan.

(11) Provides that this subdivision applies only to a minor amendment to a regional water plan approved by TWDB. Provides that this subdivision does not apply to the adoption of a subsequent regional water plan for submission to TWDB as required by Subsection (i). Authorizes the regional water planning group, notwithstanding Subdivision (10), to amend the plan in the manner provided by this subdivision if the

executive administrator of TWDB issues a written determination that the amendment qualifies for adoption in the manner provided by this subdivision before the regional water planning group votes on adoption of the amendment. Provides that an amendment qualifies for adoption in the manner provided by this subdivision only if the amendment is a minor amendment, as defined by TWDB rules, and will not result in the overallocation of any existing or planned source of water, does not relate to a new reservoir, and will not have a significant effect on instream flows or freshwater inflows to bays and estuaries. Authorizes the regional water planning group, if the executive administrator of TWDB determines that an amendment qualifies for adoption in the manner provided by this subdivision, to adopt the amendment at a public meeting held in accordance with Chapter 551 (Open Meetings), Government Code. Requires the amendment to be placed on the agenda for the meeting, and requires notice of the meeting to be given in the manner provided by Chapter 551, Government Code, at least two weeks before the date the meeting is held. Requires the public to be provided an opportunity to comment on the amendment at the meeting.

(12) Authorizes a regional water planning group, notwithstanding Subdivisions (10) and (11), to revise a regional water plan approved by TWDB without complying with Subdivisions (1)-(9) or obtaining a determination from the executive administrator of TWDB that the revision qualifies for adoption in the manner provided by Subdivision (11), if the revision consists only of substituting an alternative water management strategy previously evaluated in the planning process and already contained in the current regional water plan for a water management strategy recommended in the plan. Authorizes the regional water planning group to adopt the revision to the regional water plan at a public meeting held in accordance with Chapter 551, Government Code.

(13) Requires a regional water planning group that amends or revises a regional water plan under Subdivision (11) or (12) to submit the amended or revised plan to the TWDB for their review and approval to ensure that the amended or revised plan contains a full evaluation of the amendment or revision and that the plan as amended or revised complies with applicable requirements.

SECTION 2.10. Amends Chapter 16, Water Code, by adding Subchapters K as follows:

SUBCHAPTER K. WATER CONSERVATION

Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS PROGRAM. (a) Requires the executive administrator of TWDB to develop and implement a statewide water conservation public awareness program (program) to educate residents of this state about water conservation. Requires the program to take into account the differences in water conservation needs of various geographic regions of the state and requires the program to be designed to complement and support existing local and regional water conservation programs.

(b) Requires the executive administrator of the TWDB to develop and implement the Statewide Water Conservation and Public Awareness Program required by Subsection (a) in a state fiscal biennium only if the legislature appropriates sufficient money in that biennium specifically for that purpose.

Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Requires each entity that is required to submit a water conservation plan to TCEQ under this code to submit a copy of the plan to the executive administrator of TWDB.

(b) Requires each entity required to submit a water conservation plan to the executive administrator of TWDB, TWDB, or TCEQ under this code to report annually to the executive administrator of TWDB on the entity's progress in implementing the plan.

(c) Requires the executive administrator of TWDB to review each water conservation plan and annual report to determine compliance with the minimum requirements of all applicable laws and rules.

(d) Authorizes the TWDB to notify the TCEQ if the TWDB determine that an entity has violated this section or a rule adopted under this section. A violation of Section 16.402, notwithstanding Section 7.051(b), Water Code, is enforceable in the manner provided by Chapter 7 for a violation of a provision of this code within the TCEQ's jurisdiction or of a rule adopted by the TCEQ under a provision of this code withing the TCEQ's jurisdiction.

(e) Requires TWDB and TCEQ to jointly adopt rules to identify the minimum requirements and submission deadlines for the water conservation plans described by Subsection (b) and the annual reports required by Subsection (b); and provide for the enforcement of this section and rules adopted under this section.

SECTION 2.11. Amends Section 17.125, Water Code, by adding Subsection (b-2), to require TWDB to give priority to applications for funds for implementation of water supply projects in the state water plan by entities that have already demonstrated significant water conservation savings and will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.12. Amends Section 26.003, Water Code, to include encouraging the voluntary stewardship of public and private lands to benefit waters of the state in the policy of this state and the purpose of this subchapter.

SECTION 2.13. Amends Subchapter A, Chapter 2165, Government Code, by adding new Section 21605.008. New Subsection (a) provides that the Texas Building and Procurement Commission (the commission) may contract with a private vendor, at no cost to the state, to install electronic water conservation systems on toilets, sinks and showers in state buildings.

(b) A private vendor contracting with the commission must demonstrate that the electronic water conservation system used will yield an annual cost savings, as verified by the Texas Water Development Board, of at least 50 percent of the amount of current plumbing operation costs; have a minimum of five years of verifiable experience with retrofit installations in public buildings; use technological equipment that has a five-year history of use in public buildings; have demonstrable experience with the use and reuse of gray water; and have demonstrable experience with the use of rainwater harvesting

(c) A contract between the commission and a private vendor must include a provision that will ensure that the fiscal implications of the project will be budget-neutral or have a positive fiscal impact on the state.

(d) The commission shall contract for the installation of the conservation systems in at least 15 state buildings designated by the commission. In designating a state building, the commission must consider: the building where the greatest amount of savings can be achieved, the age of the building, and the potential operational and security concerns of the building.

(e) A private vendor that contracts with the commission may not receive any remuneration under the contract until cost savings to the state have been verified by the Texas Water Development Board.

(f) No later than December 31, 2006, the commission shall submit a progress report to the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board that includes an evaluation of the initial installation of the systems, the effectiveness, and the savings to the state.

SECTION 2.14. Amends Section 212.0101(b), Local Government Code, to require TCEQ, rather the Texas Natural Resource Conservation Commission, by rule, to establish the appropriate form and content of a certification to be attached to a plat application under this section.

SECTION 2.15. Amends Section 232.0032(b), Local Government Code, to require the TCEQ rather than the Texas Natural Resource Conservation Commission, by rule, to establish the appropriate form and content of a certification to be attached to a plat application under this section.

SECTION 2.16. Amends Chapter 401, Local Government Code, by adding new Section 401.006. New Subsection (a) requires a municipality with a population of 5,000 or more, by ordinance, to require an installer of an irrigation system to hold a license issued under Section 1903.251, Occupations Code and to obtain a permit before installing a system within the territorial limits or extraterritorial limits of the municipality.

(b) The ordinance shall include certain minimum standards and specifications as adopted by the Texas Commission on Environmental Quality (TCEQ) for designing, installing and maintaining irrigation systems in accordance with Sec. 1903.053, Occupations Code and any rules adopted by TCEQ under that section.

(c) The municipality may employ or contract with a licensed plumbing inspector or a licensed irrigator to enforce the ordinance.

(d) The Section does not apply to an on-site sewage disposal system, as defined by Sec. 366.002, Health and Safety Code.

SECTION 2.17. Amends Subsection (b), Section 1903.053, Occupations Code to provide that the TCEQ shall adopt standards relating to the design, installation, and operation of irrigation systems, the duties and responsibilities of licensed irrigators and rules that provide for effective enforcement of those standards.

SECTION 2.18. Amends Section 36.001, Water Code, by adding Subdivision (4-a) to define "federal conservation program."

SECTION 2.19. Amends Section 36.002, Water Code, to prohibit a rule promulgated by a groundwater conservation district (district) from discriminating between owners of land that is irrigated for production and owners of land or their lessees and assigns whose land that was irrigated for production is enrolled or participating in a federal conservation program.

SECTION 2.20. Amends Section 36.113, Water Code, by amending Subsections (a), (c), (e), and (f), and adding Subsections (h)-(l), as follows:

(a) Requires a district to require permits, including for the operation of wells.

(c) Authorizes a district to require, if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed purpose of use, to be included in the permit application.

(e) Authorizes the district to impose more restrictive permit conditions on new permit applications and increased use by historic or existing users. Makes a conforming change.

(f) Authorizes permits to be issued subject to the rules promulgated by the district and subject to terms and provisions with reference to the operating of wells or pumps that may be necessary to prevent waste and achieve water conservation.

(h) Requires a district to provide that a change in the purpose and place of use under a permit that was granted for historic or existing use may not be made without a permit amendment. Requires the district to grant a permit amendment changing the purpose and place of use on application of the holder of a permit that was granted for historic or existing use, and provides that the rules that apply to the operation of a well under any other permit issued by the district not based on historic or existing use apply to the operation of the well under the amended permit.

(i) Requires a district that authorizes a permit for historic or existing use to issue the permit based on evidence of the maximum amount of water beneficially used without

waste during any one year before the district was created and only for the purpose and amount beneficially used without waste in that year.

(j) Prohibits a district, in issuing a permit for an existing or historic use, from discriminating between land that is irrigated for production and enrolled or participating in a federal conservation program.

(k) Provides that a permitting decision by a district is void if the district makes its decision in violation of Subsection (j) and the district would have reached a different decision if the district had treated land or wells on land enrolled or participating in a federal conservation program the same as land irrigated for production.

(l) Requires the district, on the application of an affected owner of land or the owner's lessee or assigns, to reconsider a decision that is void under Subsection (k) and base its decision on the equal treatment of land or wells on land enrolled or participating in a federal conservation program and land that is irrigated for production. Requires the district, not later than the 90th day after the date the district receives an application under this subsection, to render its decision and notify the applicant of its decision.

SECTION 2.21. Amends Section 36.116 (b), Water Code, to authorize groundwater conservation districts, in promulgating any rules limiting groundwater production, to preserve historic or existing use before the effective date of the rules to the maximum extent practicable consistent with the district's comprehensive management plan under Section 36.1071 and as provided by Section 36.113.

SECTION 2.22. (a) Sets forth the specific applications, renewals, and permits that changes in law made under Section 36.002 and Sections 36.113(h), (i), (j), (k), and (l), do not apply.

(b) Provides that Subsection (a) of this section does not limit the ability of a groundwater conservation district to adopt procedural rules governing notice, hearing, rulemaking, or permit processing in accordance with any law finally passed by the 79th Legislature, Regular Session, 2005, that governs notice, hearing, rulemaking, or permit processing procedures of groundwater conservation districts, if the procedural rules adopted do not conflict with a substantive district rule that existed on March 1, 2005.

SECTION 2.23. Amends Chapter 49, Water Code, by adding a new Section 49.316, as follows:

Sec. 49.316 REGULATION OF FIREWORKS BY A MUNICIPALITY (a) Provides that annexation of a municipal utility district or water supply corporation by a municipality for certain purposes does not authorize a municipality to regulate fireworks within the annexed area.

(b) Provides that a municipality may continue to regulate fireworks within annexed areas or under Section 217.042, Local Government Code, if such regulation existed prior to January 1, 2005.

SECTION 2.24. (a) Requires the executive administrator of TWDB to conduct a study to determine the effects, if any, of take-or-pay contracts on efforts to conserve water.

(b) Requires the executive administrator of TWDB, not later than January 1, 2007, to submit a report to the legislature that includes a summary of the findings made during the course of the study and recommendations for legislative action based on those findings.

(c) Provides that this section expires September 1, 2007.

SECTION 2.25. Makes application of Section 11.173(b), Water Code, as amended by this article, prospective.

SECTION 2.26. (a) Provides that the changes made to Section 13.502, Water Code as amended by SECTION 2.07 of this bill (sub-metering) apply prospectively to requests upon which the TCEQ has not issued a final decision before the effective date of the Act.

(b) Provides that changes made to Sections 15.102 and 17.125, Water Codes as amended by SECTIONS 2.08 and 2.11 of this bill apply prospectively to applications for financial assistance filed with the TWDB on or after the effective date of this Act. Provides that applications for financial assistance filed before the effective date of this Act are governed by the law in effect on the date the applications were filed and continues the former law for that purpose.

SECTION 2.27. (a) Not later than October 1, 2005, the Texas Building and Procurement Commission shall submit a request for proposals from private vendors to provide water conservation systems under Section 2165.008, Government Code, as added by this Article.

(b) The initial installation of the systems shall begin not later than February 1, 2006 and shall be completed by January 1, 2008.

SECTION 2.28. (a) Provides that not later than June 1, 2006, the TCEQ shall adopt rules as required by Section 1903.053, Occupations Code, as amended by this Article, to take effect January 2007.

(b) Provides that not later than January 1, 2007, a municipality with a population of 5,000 or more shall adopt an ordinance under Sec. 401.006, Local Government Code, as added by this Article.

SECTION 2.29. STAKEHOLDER COMMITTEE REGARDING REGULATION OF GROUNDWATER UNDER STATE-OWNED LAND. (a) Establishes a "State-owned Groundwater Management Stakeholders Committee" to study issues regarding management of groundwater underlying state-owned lands.

(b) Sets forth members of the state-owned groundwater management stakeholders committee.

(c) Sets forth representation of members of the state-owned groundwater management stakeholders committee appointed by the lieutenant governor.

(d) Sets forth representation of members of the state-owned groundwater management stakeholders committee appointed by the speaker of the house.

(e) Authorizes the state-owned groundwater management stakeholders committee to appoint a technical advisory committee to assist in addressing the technical aspects of the issues to be studied.

(f) Requires the state-owned groundwater management stakeholders committee to address: appropriate goals for groundwater underlying state-owned land; appropriate science to use to determine the availability of groundwater under state-owned land; appropriate manner to undertake and pay for science to determine the availability of groundwater under state-owned land; whether a standard contract and standard term of lease for the leasing of groundwater under state-owned lands should be developed; whether a standardized process for determining the value of groundwater under state-owned land should be developed; whether a standardized methodology for determining surface damages associated with the production and transportation of groundwater under state land should be developed; and whether a groundwater conservation district should be created consisting of all state-owned land not located within the boundaries of a groundwater conservation district and if so, investigate the appropriate powers for the district; the appropriate method for funding the district; and the method for establishing a board of directors for the district.

(g) Requires the state-owned groundwater management stakeholders committee to report to the Legislature by December 1, 2006.

ARTICLE 3. FINANCING OF WATER PROJECTS.

SECTION 3.01. Amends Chapter 13, Water Code, by adding Subchapter O, as follows:

SUBCHAPTER O. STUDY CONCERNING FUNDING OF WATER INFRASTRUCTURE DEVELOPMENT

Sec. 13.551. POLICY REGARDING FINANCING OF WATER INFRASTRUCTURE, CREATION OF LEGISLATIVE OVERSIGHT COMMITTEE. (a) Sets forth legislative findings in recognition of the importance of providing for the state's future water supply and infrastructure needs.

(b) Creates a legislative oversight committee (oversight committee) to establish a fair and reasonable funding mechanism.

(c) Creates the Legislative Oversight Committee on Water Financing, in recognition of the importance of providing for the state's water infrastructure and the need to structure a fair and reasonable funding mechanism that will fund such an infrastructure.

(d) Sets forth the composition of the oversight committee of the Texas Legislature from the Senate and House of Representatives.

(e) Requires the position of the presiding officer of the oversight committee to alternate annually between the chair of the senate Natural Resources Committee and the chair of the house Natural Resources Committee. Requires the chair of the senate Natural Resources Committee to serve as the first presiding officer, with a term beginning on September 1, 2005.

(f) Provides that other than the chairs of the senate and house natural resources committees, members serve at the will of the person who appointed each member.

(g) Requires TWDB to provide staff support for the oversight committee. Requires the executive administrator of TWDB to compile and analyze for the committee's use, information received by TWDB regarding water use throughout the state, the water infrastructure needs throughout the state, the adequacy of current funding for such infrastructure needs, and gaps in the ability to fund such infrastructure.

(h) Requires the oversight committee to conduct public hearings and study public policy implications for assessing the water conservation and development fee as a source of dedicated funds for water infrastructure development. Requires the oversight committee, specifically, to determine how to establish and implement a fee including specific recommendations.

(i) Authorizes the oversight committee to appoint technical subcommittees, which may include persons other than the members of the oversight committee. Requires the oversight committee to appoint a technical advisory subcommittee composed of financial advisors and bond counsel.

(j) Requires the oversight committee to provide a report on or before August 31, 2006, to specific government officials addressing topics included in Subsection (h) and recommending any needed legislation.

(k) Requires the oversight committee to adopt rules to administer this section.

(l) Provides that the oversight committee is abolished and this section expires September 1, 2009.

SECTION 3.02. Amends Section 15.407(a), Water Code, to provide that, in this section, "economically distressed area" and "political subdivision" have the meanings assigned by Section 17.941, rather than Section 16.341.

SECTION 3.03. Amends Section 15.973(a), Water Code, to provide that the water infrastructure fund is a special fund in the state treasury to be administered by TWDB under this subchapter and rules adopted by TWDB under this subchapter. Authorizes money in the fund to be used to pay for the implementation of water projects recommended through the state and regional water planning processes under Sections 16.051 and 16.053 and for other uses authorized by this subchapter.

SECTION 3.04. Amends Section 15.974(a), Water Code, to authorize TWDB to use the water assistance fund to make specific transfers.

SECTION 3.05. Amends Section 17.172, Water Code, as follows:

Sec. 17.172. **APPLICABILITY.** Sets forth the accounts for which financial assistance is made available, including the economically distressed areas program account under specific Subchapters, including Subchapter K-1.

SECTION 3.06. Amends Chapter 17, Water Code, by adding Subchapter K-1, as follows:

SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

Sec. 17.941. **DEFINITIONS.** Defines "economically distressed area," "financial assistance," "political subdivision," "sewer services," and "sewer facilities."

Sec. 17.942. **FINANCIAL ASSISTANCE.** Authorizes the economically distressed areas program account to be used by TWDB to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, including providing money from the account for the state's participation in federal programs that provide assistance to political subdivisions.

Prohibits money from the proceeds of bonds issued under the authority of Sections 49-d-7(b) or 49-d-8, Article III, Texas Constitution, from being used to provide financial assistance under this subchapter.

Sec. 17.943. **APPLICATION FOR FINANCIAL ASSISTANCE.** (a) Authorizes a political subdivision to apply to TWDB for financial assistance under this subchapter by submitting an application together with a plan for providing water supply or sewer services to an economically distressed area.

(b) Requires the application and plan to include specific information regarding the political subdivision.

(c) Provides that a program of water conservation for the more effective use of water is required for approval of an application for financial assistance under this section in the same manner as such a program is required for approval of an application for financial assistance under Section 17.125.

(d) Authorizes TWDB, before considering the application, to require the applicant to participate in the review, provide a written determination by TCEQ stating specific information, request a financial management review from the comptroller, and any other information required by TWDB or the executive administrator of TWDB.

Sec. 17.944. **CONSIDERATIONS IN PASSING ON APPLICATION.** (a) Requires TWDB, in passing on an application for financial assistance, to consider specific needs, availability of revenue or alternative financial assistance, financing details, and the feasibility of achieving cost savings.

(b) Requires TWDB, at the time an application for financial assistance is considered, to also find that the area to be served by a proposed project has a median household income of not more than 75 percent of the median state household income for the most recent year for which statistics are available.

Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. Requires TWDB, after considering the matters described by Section 17.944, by resolution, to approve the plan and application as submitted, approve the plan and application subject to the requirements identified by TWDB or TCEQ for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, TWDB considers appropriate, deny the application and identify the requirements or remedial steps the applicant must complete before the applicant may be reconsidered for financial assistance, if TWDB finds that the applicant will be unable to obtain the managerial, financial, or technical capabilities to build and operate a system, deny the application and issue a determination that a service provider other than the applicant is necessary or appropriate to undertake the proposed project, or deny the application.

Sec. 17.946. FINDINGS REGARDING PERMITS. (a) Prohibits TWDB from releasing money for the construction of that portion of a project that proposes surface water or groundwater development until the executive administrator of TWDB makes a specific written finding regarding the applicant's water rights.

(b) Authorizes TWDB to release money for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs before making the finding required under Subsection (a), if the executive administrator of TWDB determines that a reasonable expectation exists that the finding will be made before the release of funds for construction.

(c) Prohibits TWDB, if an applicant includes a proposal for treatment works, from delivering money for the treatment works until the applicant has received a permit for construction and operation of the treatment works and approval of the plans and specifications from TCEQ or unless such a permit is not required by the TCEQ.

Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) Authorizes TWDB to provide financial assistance to political subdivisions under this subchapter by using money in the economically distressed areas program account to purchase political subdivision bonds.

(b) Authorizes TWDB to make financial assistance available to political subdivisions in any other manner that it considers feasible, including specific contracts or agreements.

Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) Authorizes TWDB to use money in the economically distressed areas program account to provide financial assistance under this subchapter to a political subdivision to be repaid in the form, manner, and time provided by TWDB rules and in the agreement between TWDB and the political subdivision, taking into consideration the information provided by Section 17.943.

(b) Prohibits TWDB, in providing financial assistance to an applicant under this subchapter, from providing to the applicant financial assistance for which repayment is not required in an amount that exceeds 50 percent of the total amount of the financial assistance plus interest on any amount that must be repaid, unless the Department of State Health Services (DSHS) issues a finding that a nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project. Requires TWDB and the applicant to provide to DSHS information necessary to make a determination, and authorizes TWDB and DSHS to enter into memoranda of understanding necessary to carry out this subsection.

(c) Prohibits the total amount of financial assistance provided by TWDB to political subdivisions under this subchapter from state-issued bonds for which repayment is not required from exceeding at any time 90 percent of the total principal amount of issued and unissued bonds authorized for purposes of this subchapter.

(d) Requires TWDB, in determining the amount and form of financial assistance and the amount and form of repayment, if any, to consider specific rates, fees, charges, sources of funding available, any local money of the political subdivision, and reasonable charges for water and wastewater service.

(e) Authorizes TWDB, in making its determination under Subsection (d)(1), to consider any study, survey, data, criteria, or standard developed or prepared by any federal, state, or local agency, private foundation, banking or financial institution, or other reliable source of statistical or financial data or information.

SECTION 3.07. Amends Section 17.958(c), Water Code, to make a conforming change.

SECTION 3.08. Repealer: Sections 15.407(i) (relating to a change in the status of a county's per capita income or a decrease in unemployment rate average) and Section 15.974(b) (relating to prohibition of funding under Subsection (a)(2)), Water Code.

ARTICLE 4. SPECIAL DISTRICT CREATION

SECTION 4.01. Amends Subtitle H, Title 6, Special District Local Laws Code, by adding Chapter 8812, as follows:

CHAPTER 8812. VICTORIA COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8812.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8812.002. NATURE OF DISTRICT. Provides that the Victoria County Groundwater Conservation District (district) is a groundwater conservation district in Victoria County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8812.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held before September 1, 2010:

(1) the district is dissolved on September 1, 2010; except that any debts incurred are required to be paid, any assets that remain after the payment of debts are required to be transferred to Victoria County; and the organization of the district is required to be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires on September 1, 2013.

Sec. 8812.004. INITIAL DISTRICT TERRITORY. Provides that the initial boundaries of the district are coextensive with the boundaries of Victoria County, Texas.

Sec. 8812.005. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Provides that except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Reserves Sections 8812.006-8812.020 for expansion.]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8812.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Requires the Victoria County Commissioners Court, not later than the 10th day after September 1, 2005, to appoint five temporary directors, in a specific manner.

(b) Requires the remaining temporary directors, if there is a vacancy on the temporary board of directors of the district, to select a qualified person to fill the vacancy. Requires the Victoria County Commissioners Court, if at any time there are fewer than three qualified temporary directors, to appoint the necessary number of persons to fill all vacancies on the board.

(c) Requires a person to be a resident of Victoria County and at least 18 years of age to be eligible to serve as a temporary director.

(d) Sets forth terms to be served by the temporary directors.

Sec. 8812.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Requires a majority of the temporary directors, as soon as practicable after all the temporary directors have qualified under Section 36.055 (Sworn Statement, Bond, and Oath of Office), Water Code, to convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. Requires the organizational meeting, if an agreement on location cannot be reached, to be at the Victoria County Courthouse. Requires the temporary directors to elect a chair, vice chair, and secretary from among the temporary directors at the meeting.

Sec. 8812.023. CONFIRMATION ELECTION. (a) Requires the temporary directors, not later than the 30th day after September 1, 2005, to order an election to be held not later than the 120th day after September 1, 2005, to confirm the creation of the district.

(b) Provides that Section 41.001(a) (Uniform Election Dates), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Requires the ballot for the election to be printed to permit voting for or against specific propositions.

(d) Authorizes the temporary board to include any other proposition on the ballot that it considers necessary.

(e) Requires a confirmation election, except as provided by this section, to be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code. Provides that the provision of Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to a confirmation election under this section.

(f) Authorizes the temporary board to hold another confirmation election not sooner than the first anniversary of the most recent confirmation election if the creation of the district is not confirmed during the election.

Sec. 8812.024. INITIAL DIRECTORS. (a) Provides that if creation of the district is confirmed at an election held under Section 8812.023, the temporary directors of the district become the initial directors of the district and serve on the board of directors of the district (board) until permanent directors are elected under Section 8812.025.

(b) Sets forth terms for directors.

Sec. 8812.025. INITIAL ELECTION OF PERMANENT DIRECTORS. Requires an election, on the uniform election date prescribed by Section 41.001, Election Code, in November of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, to be held in the district for the

election of two directors to replace the initial directors who, under Section 8812.024(b), serve until that election.

Sec. 8812.026. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2013.

[Reserves Sections 8812.027-8812.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8812.051. DIRECTORS; TERMS. Provides that the district is governed by a board of five directors serving staggered four-year terms.

Sec. 8812.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) Requires the directors of the district to be elected according to the commissioners precinct method as provided by this section.

(b) Requires one director to be elected by the voters of the entire district, and requires two directors to be elected from each county commissioners precinct by the voters of that precinct.

(c) Requires a person, except as provided by Subsection (e), to be at least 18 years of age and a resident of the district to be eligible to be a candidate for or to serve as director at large. Requires a person to be at least 18 years of age and a resident of that precinct to be a candidate for or to serve as director from a county commissioners precinct.

(d) Requires a person to indicate specific information on the application for a place on the ballot.

(e) Requires a director in office on the effective date of a change in precinct boundaries due to redistricting after each federal decennial census, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, to serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

Sec. 8812.053. ELECTION DATE. Requires the district to hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in November of each even-numbered year.

Sec. 8812.054. VACANCIES. Requires a vacancy on the board to be filled by appointment of the board until the next regularly scheduled directors' election. Requires the person appointed to fill the vacancy to serve only for the remainder of the unexpired term.

[Reserves Sections 8812.055-8812.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8812.101. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWERS. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 8812.102-8812.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8812.151. LIMITATION ON TAXES. Prohibits the district from imposing ad valorem taxes at a rate that exceeds three cents on each \$100 of assessed valuation of taxable property in the district.

SECTION 4.02. Repealer: Chapter 1332 (relating to the Crossroads Groundwater Conservation District), Acts of the 77th Legislature, Regular Session, 2001.

SECTION 4.03 Provides that all requirements of the constitution and laws of this state and the rules procedures of the legislature with respect to the notice, introductions, and passage of this Act are fulfilled and accomplished.

ARTICLE 5. EDWARDS AQUIFER AUTHORITY

SECTION 5.01. Amends Section 1.11(f), Chapter 626, Acts of the 73rd Legislature, Regular Session 1993, as follows:

(f) Authorizes the Edwards Aquifer Authority (authority) to own, finance, design, construct, operate, or maintain recharge facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge facilities. Redefines "recharge facility" for the purpose of this subsection. Deletes existing text prohibiting fees from being used for purchasing or operating facilities.

SECTION 5.02. Amends Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session 1993, by amending Subsections (a), (c), (f), and (h), as follows:

(a) Requires authorizations to withdraw water from Edwards Aquifer (aquifer) and all authorizations and rights to make a withdrawal under this Act to be limited in accordance with this section to recognize the hydro-geologic connection and interaction between surface and groundwater.

(c) Prohibits the amount of permitted withdrawals from the aquifer, except as provided by Subsections (f) and (h) of this section, for the period beginning January 1, 2005, rather than 2008, from exceeding the sum of all issued and pending regular permits. Provides for adjusting the amount of permitted withdrawals if annexation occurs.

(f) Authorizes the authority, if the level of the aquifer is equal or greater than 665, rather than 650, feet above mean sea level as measured at well J-17, to authorize withdrawal from the San Antonio pool, on an uninterrupted basis, of permitted amounts. Requires the authority, in accordance with Section 1.26 of this article, to limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

(h) Authorizes the authority, to accomplish the purposes of this article, through a program, to implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. Authorizes the authority from time to time as appropriate to revise the practices, procedures, and methods. Requires the authority, to meet this requirement, to require phased reductions in the amount of water that may be used or withdrawn by existing users or categories of other users or implementation of alternative management practices, procedures, and methods, including the authority's critical period management plan established under Section 1.26 of this article or implementation of alternative management practices, procedures, and methods.

SECTION 5.03. Amends Section 1.15(c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to prohibit regular permits, except as provided in Section 1.14(f) and Section 1.26 of this article, from being issued on an interruptible basis, and prohibits the total authorized withdrawals authorized by all regular permits issued by the authority from exceeding the limitation provided by Section 1.14 of this article.

SECTION 5.04. Amends Section 1.19(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Requires the withdrawal of water under a term permit to be consistent with the authority's critical period management plan established under Section 1.26 of this article. Prohibits a holder of a term permit from withdrawing from the San Antonio pool of the aquifer unless the level of the aquifer is higher than 675, rather 665, feet above sea level, as measured at Well J-17, and the flow at Comal Springs as determined by Section 1.26(c) is greater than 350 cfs.

SECTION 5.05. Amends Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by amending Section 1.26 and adding Sections 1.26A, as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) Requires the authority, after review of the recommendations received, as prescribed in Section 1.26A of this article, to prepare and coordinate implementation of a critical period management plan in a manner consistent with Section 1.14(a). Deletes existing text regarding a deadline.

(b) Defines the terms "MSL" and "CFS" for this subsection. Requires the authority, not later than January 1, 2006, by rule, to adopt and enforce a critical period management plan with withdrawal reduction criteria at no less than specific amounts, whether according to the index well levels or Comal Springs flow as may be applicable.

(c) Requires the authority to continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. Requires the authority to track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required.

(d) Prohibits the authority from allowing a specific annualized rate of withdrawals from exceeding a certain level under critical period Stage IV, beginning September 1, 2005.

(e) Prohibits the authority from allowing a specific annualized rate of withdrawals from exceeding a certain level under critical period Stage IV, after January 1, 2012, unless, after review and consideration of recommendations received by the authority under Section 1.26A of this article and consultation with the appropriate state and federal agencies, the authority determines that a different volume of withdrawals is consistent with Section 1.14(a) of this article in maintaining protection for protected and endangered species to the extent required by federal law.

(f) Authorizes the authority, from time to time, by rule, to amend the withdrawal reduction criteria of the critical period management plan as set forth in Subsections (b), (c), and (e) after review and consideration of the recommendations from the environmental flows commission, the Edwards Aquifer Area expert science team, and the Edwards Aquifer Area Stakeholders Committee, as prescribed in Section 1.26A of this article. Requires the amended plan to be consistent with Section 1.14(a) of this article.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) Requires the environmental flows commission, as established under Section 11.0236, Water Code, to appoint a 15-member Edwards Aquifer Area Stakeholders Committee (stakeholders committee) not later than January 1, 2006. Sets forth the composition of the committee.

(b) Requires the stakeholders committee to appoint a seven-member Edwards Area expert science team (expert science team) not later than April 30, 2006. Requires the expert science team to be composed of technical members with certain special expertise. Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science team. Requires a

member of the science advisory committee, established in Section 11.02361, Water Code, to serve as liaison to the expert science team.

(c) Requires the expert science team to develop an analysis of spring discharge rates and aquifer levels as a function of withdrawal levels. Requires the expert science team, based upon this analysis and the required elements to be considered by the authority in Section 1.14 of this Act, through a collaborative process designed to achieve consensus, to create recommendations for withdrawal reduction levels and stages for critical period management, including, if appropriate, establishing separate and different withdrawal levels and critical period management rules for different pools of the aquifer and submit them to the stakeholders committee, the flows commission, and the authority. Requires the initial recommendations to be completed and submitted no later than September 30, 2006.

(d) Requires the expert science team, in developing its recommendations, to consider all reasonably available science, including any Edwards Aquifer specific studies, and to be based solely on the best science available. Prohibits the stakeholders committee from changing the recommendations of the expert science team regarding the withdrawal limitations appropriate to achieve the purposes of Section 1.14 of this article.

(e) Requires the stakeholders committee to review the withdrawal limitation and critical period management submitted by the expert science team and to consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the Edwards Aquifer Area and the required elements to be considered by the authority in Section 1.14 of this Act. Requires the stakeholders committee to develop recommendations regarding a critical period management plan and submit its recommendations to the authority and the flows commission. Requires the stakeholders committee, in developing its recommendations, to operate on a consensus basis to the maximum extent possible. Requires the initial recommendations to be completed and submitted no later than October 31, 2006.

(f) Requires the flows commission to submit to the authority its comments on and recommendations regarding the expert science team's recommended withdrawal reduction levels and stages for critical management needed to maintain target spring discharge and aquifer levels. Requires the withdrawal reduction recommendations to be based upon a combination of spring discharge rates of the San Marcos and Comal Springs and levels at J-17 and J-27 wells.

(g) Requires the expert science team, stakeholder committee, and the flows commission to submit recommendations to the authority for use in developing its rules relative to establishing the critical period management plan.

(h) Requires the meetings of the expert science team and stakeholders committee, where reasonably practicable, to be open to the public.

(i) Requires the stakeholders committee, with the assistance of the expert science team, in recognition of the importance of critical period management to adapt to changed conditions or information, after submitting its recommendations regarding withdrawal limitations and strategies to meet the spring flow needs to the authority, to prepare and submit a specific work plan to the flows commission. Sets forth the requirements of the work plan.

(j) Requires the authority, to assist the flows commission to assess the extent to which the recommendations of the expert science team are considered and implemented, to provide specific written reports to the flows commission, at intervals determined by the flows commission.

SECTION 5.06. Amends Sections 1.29(b) and (i), Section 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Authorizes each water district governed by Chapter 36, rather than 52, Water Code, that is within the authority's boundaries to contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district.

(i) Requires the authority to provide money as necessary, but not to exceed \$75,000, annually adjusted for changes in the consumer price index, rather than five percent of the money collected under Subsection (d), to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article. Sets forth requirements of the work plan.

SECTION 5.07. Amends Section 1.45(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to make conforming changes.

SECTION 5.08. Repealer: (1) Sections 1.14 (b) (relating to the amount of permitted withdrawals from the aquifer), and (d) (relating to authorizing the authority to increase the maximum amount of withdrawals), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(2) Section 1.21 (Permit Requirement), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993; and

(3) Sections 1.29 (a) (relating to requiring the cost of reducing withdrawals or permit retirements), (c) (relating to authorizing the authority to assess an equitable special fee), (d) (relating to requiring the commission to assess equitable special fees), and (h) (relating to prohibiting the use of special fees) Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 5.09. Adds Section 1.29(j), BUDGETARY ADVISORY COMMITTEE, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(j) BUDGETARY ADVISORY COMMITTEE. Requires the Authority to appoint a budgetary advisory committee no later than September 30, 2005 to consult and advise the authority on budget matters, including aquifer management fees and bonding authority issues. Requires each voting member of the authority to appoint one member to the budgetary advisory committee.

ARTICLE 6. CREATION OF VAL VERDE COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION 6.01. DEFINITIONS. Defines the terms ABoard”, “Director” and ADistrict.@

SECTION 6.02. CREATION. A groundwater conservation district, to be known as the Val Verde Groundwater Conservation District (district), is created in Val Verde County, subject to voter approval at a confirmation election under Section 6.08 of this article.

SECTION 6.03. FINDINGS OF BENEFIT. The district is created to serve a public use and benefit.

SECTION 6.04. CONTINUING PROVISIONS OF DISTRICT. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8804 as follows:

Chapter 8804. VAL VERDE COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8804.001. DEFINITIONS. Defines Aagriculture use@, Aagriculture@, Aboard@, Adirector@, Adistrict@, Adomestic use@, and Apolitical subdivision@ as used in this article.

Sec. 8804.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Val Verde County created under Section 59, Article XVI, Texas Constitution.

Sec. 8804.003. DISTRICT PURPOSE. Provides for certain purposes for the district's creation.

[Sections 8804.004-8804.050 reserved for expansion.]

SUBCHAPTER B. TERRITORY

Sec. 8804.051. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Val Verde County.

[Sections 8804.052-8804.100 reserved for expansion.]

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 8804.101. BOARD. The board consists of seven directors.

Sec. 8804.102. METHOD OF ELECTING DIRECTORS. The directors of the district shall be elected according to the commissioners precinct method as provided by this section with:

§ Three members shall be elected by the voters of the entire district

§ One member shall be elected from each county commissioners= precinct by the voters of that precinct.

Sec. 8804.103. ELECTION DATE. The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in November of each even-numbered year.

Sec. 8804.104. TERMS. The directors shall serve staggered four-year terms and may serve for consecutive terms.

Sec. 8804.105. COMPENSATION. The directors are not entitled to receive fees of office for performing the duties of a director. The board may authorize reimbursement for the directors= reasonable expenses incurred while engaging in activities outside the district on behalf of the board.

[Sections 8804.106-8804.150 reserved for expansion.]

SUBCHAPTER D. POWERS AND DUTIES

Sec. 8804.151. POWERS AND DUTIES. Provides that the district has all the powers and duties provided the general law of this state, including Chapter 36, Water Code.

Sec. 8804.152. PERMIT TO TRANSFER GROUNDWATER. The district shall require a person to obtain a permit from the district to transfer groundwater out of the district and regulate the terms of the transfer.

The district shall develop rules under this section that are consistent with the requirements of Section 36.122, Water Code. The district shall use a groundwater availability model, and not historical use, as a basis for issuing permits

Sec. 8804.153. PERMITS FOR USE SOLELY INSIDE DISTRICT. The district shall grant the City of Del Rio a permit in the city's names that authorizes the city to pump from all city wells a stated cumulative amount of not less than 15,000 acre-feet of water annually for use solely inside the district. If sufficient groundwater is available, the district shall amend the city's permit to authorize the city to pump a stated cumulative amount of not less than 20,000 acre-feet of water annually for use solely inside the district. This section does not limit the city's right to apply for or obtain a permit to transfer groundwater.

The district shall grant a nonprofit rural water supply corporation, water district, or other political subdivision a permit to pump from its wells annually a volume of water that is not less than the volume equal to twice its greatest water usage in a calendar year for use solely inside the district.

Sec. 8804.154. **AGRICULTURE USE PERMIT.** The district shall grant any application for an agricultural use permit for any well that is used solely for agriculture use inside the district and that is not less than five acre-feet of water per acre actually cultivated per year. An agricultural use permit is nontransferable and expires on the date the well ceases to be used for agricultural use inside the district. This section does not limit the well owner's right to apply for or obtain a permit to transfer groundwater.

Sec. 8804.155. **LIMITATION ON WELL PERMIT REQUIREMENTS.** The district may not require a person to obtain a permit from the district for a well used solely for domestic use or for providing water for livestock or poultry on a tract of land smaller than 10 acres that is either drilled, completed, or equipped so that it is incapable of producing more than 30,000 gallons of groundwater a day; a tract of land 10 acres or larger that is incapable of producing 50,000 gallons of groundwater a day; or any well in use before the date the district is confirmed at an election and used solely for agricultural use.

Sec. 8804.156. **REPLACEMENT WELL.** A new well that replaces an abandoned or decommissioned well is subject to the same permit requirements or exemption as the well it replaces if the replacement well is used solely for the same purposes and the same area as the well it replaces.

Sec. 8804.157. **PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER.** The district may not purchase, sell, transport, or distribute surface water or groundwater for any purpose.

Sec. 8804.158. **PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN.** The district may not exercise the power of eminent domain.

Sec. 8804.159. **REGIONAL COOPERATION.** To provide for regional continuity, the district shall participate in coordination meetings, coordinate the collection of data, coordinate efforts to monitor water quality, and provide groundwater level data to other groundwater conservation districts in its designated management area. The district shall investigate any groundwater or aquifer pollution and notify other groundwater conservation districts and all appropriate agencies of any groundwater pollution detected.

Sec. 8804.160. **WATER CONSERVATION INITIATIVE.** The district may create a water conservation initiative as described by Section 11.32, Tax Code.

Sec. 8804.161. **TEXAS WATER DEVELOPMENT BOARD STUDY.** At least once every 10 years and at any other time the board considers necessary, the staff of the Texas Water Development Board shall make a complete study of the groundwater in the district.

Sec. 8804.162. **LOCAL STUDY OF GROUNDWATER AVAILABILITY.** Not later than the 10th anniversary of the date on which the district is confirmed, the district shall complete a study to determine whether there is sufficient groundwater to amend the permit granted to the City of Del Rio.

Sec. 8804.163. **MORATORIUM ON TRANSFER PERMITS.** The district shall impose a moratorium on the issuance of permits for the transfer of groundwater during each period set aside to conduct and consider a groundwater study.

Sec. 8804.164. **SPRING FLOW AND GROUNDWATER AVAILABILITY ADVISORY PANEL.** Provides for appointment of a springflow and groundwater availability advisory panel to determine the minimum springflow of each spring and the groundwater availability in the district.

[Sections 8804.165-8804.200 reserved for expansion.]

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 8804.201. **LIMITATION ON TAXES.** The district may not levy ad valorem taxes at a rate that exceeds five cents on each \$100 of assessed valuation of taxable property in the district.

Sec. 8804.202. **FEES.** The board may impose reasonable fees on each well.

Sec. 8804.203. **EXEMPTION FROM FEES.** The district may not impose a fee on a well drilled by a nonprofit rural water supply corporation, water district, or other political subdivision if the well's production is for use within the district. The district may impose a reasonable and temporary fee if severe drought or another district emergency makes the fee necessary and the term of the order does not exceed 180 days.

SECTION 6.05. APPOINTMENT OF TEMPORARY DIRECTORS. Not later than the 45th day after the effective date of this Act:

- § the Val Verde County Commissioners Court shall appoint temporary directors from each of the four commissioners precincts in the county to represent the precinct in which the temporary directors reside;
- § the County Judge shall appoint one temporary director who resides in the district to represent the district at large; and
- § the Del Rio City Council shall appoint two temporary directors who reside in the district to represent the district at large.

SECTION 6.06. LIMITED POWERS AND DUTIES OF TEMPORARY BOARD OF DIRECTORS. Provides for powers and duties of the temporary board.

SECTION 6.07. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practical, a majority of the temporary directors shall convene the organizational meeting of the district as a location within the district agreeable to a majority of the directors. If no location is agreed upon, the meeting shall be held at the Val Verde County Courthouse.

SECTION 6.08. CONFIRMATION ELECTION. The temporary directors shall hold an election to confirm the creation of the district.

SECTION 6.09. INITIAL DIRECTORS. If creation of the district is confirmed, the temporary directors become the initial directors of the district and serve on the board of directors until permanent directors are elected.

SECTION 6.10. ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, an election shall be held in the district for the election of seven directors.

SECTION 6.11. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. This section explains the procedural requirement that must be met for the passage of this Act.

SECTION 6.12. STUDY COMPLETION. The Texas Water Development Board shall complete the initial study and deliver the finding of the study to the board no later than 18th month after the date the district is confirmed.

SECTION 6.13. EXPIRATION. If the creation of the district is not confirmed, this article expires on September 1, 2010.

ARTICLE 7. EFFECTIVE DATE.

SECTION 6.01. Effective date: September 1, 2005, except as otherwise provided by this Act.

EFFECTIVE DATE

Except as otherwise provided by this Act, this Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Article 1.

Relating to legislative findings, C.S.S.B. 3 clarifies that the approaches to be explored and reviewed for providing for environmental flows in basins without sufficient unappropriated water to fully satisfy the environmental flow standards should be market based approaches. C.S.S.B. 3 also clarifies that industrial water users include manufacturing and refining, as members of the basin and bay stakeholder committees.

C.S.S.B. 3 adds clarification that the Rio Grande basin and bay expert science teams are to exclude Mexican water flows from their environmental flow regime recommendations.

C.S.S.B. 3 also clarifies that the Rio Grande basin and bay stakeholder committee is to consider the water accounting requirements, treaty, and water master allocations of water. C.S.S.B. also prohibits the Rio Grande expert science team from making recommendations that would result in a violation of a treaty or court decision.

C.S.S.B. 3 clarifies that the Texas Commission on Environmental Quality (TCEQ) considers both the definition of geographical extent of the river basin and bay system adopted by the flows commission and definitions and designations of the river basins by the Texas Water Development Board (TWDB) in adopting environmental flow standards.

C.S.S.B. 3 provides an exception for priority date of any environmental flow set-aside in the middle and lower Rio Grande basin.

Article 2.

C.S.S.B. 3 adds the word "voluntary" to land steward ship policy and findings.

C.S.S.B. 3 deletes conjunctive use definition, consideration in water right permitting, and financing incentives.

C.S.S.B. 3 deletes Chapter 11, Subchapter K. Remedies for Interference with Domestic or Agricultural Water Well.

C.S.S.B. 3 requires that, for the executive director of TCEQ to approve a request to change from sub-metered billing to allocated billing for certain multi-family units, property owners or managers must submit certain documentation to the TCEQ.

C.S.S.B. 3 deletes funding for Groundwater Management Coordination.

C.S.S.B. 3 deletes funding for groundwater management area technical assistance.

C.S.S.B. 3 deletes TWDB monitoring and report to the legislature relating to water conservation.

C.S.S.B. 3 deletes all provisions relating to Groundwater Management Area Council and groundwater conservation district management plans.

C.S.S.B. 3 adds requirement to regional water planning group expedited amendment process and adoption of alternative strategies to require TWDB governing board review and approval of such amendments or revisions.

C.S.S.B. 3 conditions implementation of Statewide Water Conservation Public Awareness Campaign on sufficient legislative appropriations and deletes protection and use of intellectual property and publications.

C.S.S.B. 3 deletes Chapter 16, Subchapter L, REGISTRATION AND REPORTING OF WATER TRANSACTIONS.

C.S.S.B. 3 79(R)

C.S.S.B. 3 deletes all provisions of SB3 Engrossed relating to Aquifer Storage and Recovery.

C.S.S.B. 3 adds provisions for Water Conservation Systems for State Buildings relating to electronic water conservation devices.

C.S.S.B. 3 adds provisions requiring certain municipalities to license installers of irrigation systems and require a permit before installing an irrigation system. C.S.S.B. 3 also requires TCEQ to adopt standards relating to irrigation systems.

C.S.S.B. 3 deletes GROUNDWATER CONSERVATION DISTRICT FOR STATE-OWNED LAND.

C.S.S.B. 3 deletes requirements for data collection and training according to TWDB rules for groundwater conservation districts.

C.S.S.B. 3 deletes APPEAL OF DISTRICT ACTION TO DISPUTE RESOLUTION PANEL.

Except for certain applications, permits, amendments and renewals of permits filed before a certain date, C.S.S.B. 3 makes the changes to law relating to historic use and conservation reserve program rules by groundwater districts prospective in application.

C.S.S.B. 3 adds provisions for REGULATION OF FIREWORKS BY A MUNICIPALITY.

C.S.S.B. 3 adds establishment of a STAKEHOLDER COMMITTEE REGARDING REGULATION OF GROUNDWATER UNDER STATE-OWNED LAND to study issues regarding management of groundwater underlying state-owned lands.

Article 3.

C.S.S.B. 3 deletes all references and structure relating to the Water Conservation and Development Fee.

Article 4

no changes

Article 5.

C.S.S.B. 3 removes the 2020 Critical Period Stage IV reductions. C.S.S.B. 3 provides an opportunity for the Edwards Aquifer Authority (the authority) to alter withdrawal limits under Critical Period Stage IV, if recommended by the Edwards Aquifer Area Stakeholders Committee and Expert Science Team. The authority must determine that the change is consistent with maintaining protection for protected and endangered species to the extent required by federal law.

C.S.S.B. 3 adds a requirement for the authority to appoint a budgetary advisory committee to consult and advise the authority on budget matters, including management fees and bonding authority issues.

C.S.S.B. 3 adds a definition of mean sea level and also allows the Expert Science Team to determine whether establishing different withdrawal levels from different pools would be appropriate.

Article 6. C.S.S.B. 3 provides for the Creation of Val Verde County Groundwater Conservation District

Article 7. EFFECTIVE DATE

C.S.S.B. 3 79(R)