

AN ACT

relating to the notice, hearing, rulemaking, and permitting procedures for groundwater conservation districts.

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

SECTION 1. Section 16.053, Water Code, is amended by amending Subsections (e) and (p) and adding Subsections (p-1), (p-2), (p-3), and (p-4) to read as follows:

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

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

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

(3) identifies:

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

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

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

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

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

6 (A) any existing water or drought planning
7 efforts addressing all or a portion of the region;

8 (B) approved [~~certified~~] groundwater
9 conservation district management plans and other plans submitted
10 under Section 16.054;

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

16 (D) protection of existing water rights in the
17 region;

18 (E) opportunities for and the benefits of
19 developing regional water supply facilities or providing regional
20 management of water supply facilities;

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

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

27 (H) voluntary transfer of water within the region

1 using, but not limited to, regional water banks, sales, leases,
2 options, subordination agreements, and financing agreements; and

3 (I) emergency transfer of water under Section
4 11.139, including information on the part of each permit, certified
5 filing, or certificate of adjudication for nonmunicipal use in the
6 region that may be transferred without causing unreasonable damage
7 to the property of the nonmunicipal water rights holder;

8 (6) identifies river and stream segments of unique
9 ecological value and sites of unique value for the construction of
10 reservoirs that the regional water planning group recommends for
11 protection under Section 16.051;

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

16 (8) describes the impact of proposed water projects on
17 water quality.

18 (p) If a groundwater conservation district files a petition
19 with the development board stating that a conflict requiring
20 resolution may exist between the district's approved [~~certified~~
21 ~~groundwater conservation district~~] management plan developed under
22 Section 36.1071 and an [~~the~~] approved state [~~regional~~] water plan,
23 the development board shall provide technical assistance to and
24 facilitate coordination between the district and the involved
25 region to resolve the conflict. Not later than the 45th day after
26 the date the groundwater conservation district files a petition
27 with the development board, if the conflict has not been resolved,

1 the district and the involved region shall mediate the conflict.
2 The district and the involved region may seek the assistance of the
3 Center for Public Policy Dispute Resolution at The University of
4 Texas School of Law or an alternative dispute resolution system
5 established under Chapter 152, Civil Practice and Remedies Code, in
6 obtaining a qualified impartial third party to mediate the
7 conflict. The cost of the mediation services must be specified in
8 the agreement between the parties and the Center for Public Policy
9 Dispute Resolution or the alternative dispute resolution system.
10 If the district and the involved region cannot resolve the conflict
11 through mediation [~~remains~~], the development board shall resolve
12 the conflict not later than the 60th day after the date the
13 mediation is completed as provided by Subsections (p-1) and (p-2).

14 (p-1) If the development board determines that resolution
15 of the conflict requires a revision of an approved regional water
16 plan, the development board shall suspend the approval of that plan
17 and provide information to the regional water planning group. The
18 regional water planning group shall prepare any revisions to its
19 plan specified by the development board and shall hold, after
20 notice, at least one public hearing at some central location within
21 the regional water planning area. The regional water planning
22 group shall consider all public and development board comments,
23 prepare, revise, and adopt its plan, and submit the revised plan to
24 the development board for approval and inclusion in the state water
25 plan.

26 (p-2) If the development board determines that resolution
27 of the conflict requires a revision of the district's approved

1 ~~[certified]~~ groundwater conservation district management plan, the
2 development board shall ~~[suspend the certification of that plan~~
3 ~~and]~~ provide information to the district. The groundwater district
4 shall prepare any revisions to its plan based on the information
5 provided ~~[specified]~~ by the development board and shall hold, after
6 notice, at least one public hearing at some central location within
7 the district. The groundwater district shall consider all public
8 and development board comments, prepare, revise, and adopt its
9 plan, and submit the revised plan to the development board ~~[for~~
10 ~~certification]~~.

11 (p-3) If the groundwater conservation district disagrees
12 with the decision of the development board under Subsection (p),
13 the district may appeal the decision to a district court in Travis
14 County. Costs for the appeal shall be set by the court hearing the
15 appeal. An appeal under this subsection is by trial de novo.

16 (p-4) On the request of the involved region or groundwater
17 conservation district, the development board shall include
18 discussion of the conflict and its resolution in the state water
19 plan that the development board provides to the governor, the
20 lieutenant governor, and the speaker of the house of
21 representatives under Section 16.051(e).

22 SECTION 2. Section 36.001, Water Code, is amended by
23 striking Subdivision (17) and adding Subdivisions (4-a) and (24)
24 through (29) to read as follows:

25 (4-a) "Federal conservation program" means the
26 Conservation Reserve Program of the United States Department of
27 Agriculture.

1 ~~[(17) "Applicant" means a newly confirmed district~~
2 ~~applying for a loan from the loan fund.]~~

3 (24) "Total aquifer storage" means the total
4 calculated volume of groundwater that an aquifer is capable of
5 producing.

6 (25) "Managed available groundwater" means the amount
7 of water that may be permitted by a district for beneficial use in
8 accordance with the desired future condition of the aquifer as
9 determined under Section 36.108.

10 (26) "Recharge" means the amount of water that
11 infiltrates to the water table of an aquifer.

12 (27) "Inflows" means the amount of water that flows
13 into an aquifer from another formation.

14 (28) "Discharge" means the amount of water that leaves
15 an aquifer by natural or artificial means.

16 (29) "Evidence of historic or existing use" means
17 evidence that is material and relevant to a determination of the
18 amount of groundwater beneficially used without waste by a permit
19 applicant during the relevant time period set by district rule that
20 regulates groundwater based on historic use. Evidence in the form
21 of oral or written testimony shall be subject to cross-examination.
22 The Texas Rules of Evidence govern the admissibility and
23 introduction of evidence of historic or existing use, except that
24 evidence not admissible under the Texas Rules of Evidence may be
25 admitted if it is of the type commonly relied upon by reasonably
26 prudent persons in the conduct of their affairs.

27 SECTION 3. Section 36.101, Water Code, is amended by

1 amending Subsection (b) and adding Subsections (d)-(1) to read as
2 follows:

3 (b) Except as provided by Section 36.1011, after [~~After~~]
4 notice and hearing, the board shall adopt and enforce rules to
5 implement this chapter, including rules governing procedure before
6 the board. [~~Notice in this section shall include publication of the~~
7 ~~agenda of the hearing in one or more newspapers of general~~
8 ~~circulation in the county or counties in which the district is~~
9 ~~located.~~]

10 (d) Not later than the 20th day before the date of a
11 rulemaking hearing, the general manager or board shall:

12 (1) post notice in a place readily accessible to the
13 public at the district office;

14 (2) provide notice to the county clerk of each county
15 in the district;

16 (3) publish notice in one or more newspapers of
17 general circulation in the county or counties in which the district
18 is located;

19 (4) provide notice by mail, facsimile, or electronic
20 mail to any person who has requested notice under Subsection (i);
21 and

22 (5) make available a copy of all proposed rules at a
23 place accessible to the public during normal business hours and, if
24 the district has a website, post an electronic copy on a generally
25 accessible Internet site.

26 (e) The notice provided under Subsection (d) must include:

27 (1) the time, date, and location of the rulemaking

1 hearing;

2 (2) a brief explanation of the subject of the
3 rulemaking hearing; and

4 (3) a location or Internet site at which a copy of the
5 proposed rules may be reviewed or copied.

6 (f) The presiding officer shall conduct a rulemaking
7 hearing in the manner the presiding officer determines to be most
8 appropriate to obtain information and comments relating to the
9 proposed rule as conveniently and expeditiously as possible.
10 Comments may be submitted orally at the hearing or in writing. The
11 presiding officer may hold the record open for a specified period
12 after the conclusion of the hearing to receive additional written
13 comments.

14 (g) A district may require each person who participates in a
15 rulemaking hearing to submit a hearing registration form stating:

16 (1) the person's name;

17 (2) the person's address; and

18 (3) whom the person represents, if the person is not at
19 the hearing in the person's individual capacity.

20 (h) The presiding officer shall prepare and keep a record of
21 each rulemaking hearing in the form of an audio or video recording
22 or a court reporter transcription.

23 (i) A person may submit to the district a written request
24 for notice of a rulemaking hearing. A request is effective for the
25 remainder of the calendar year in which the request is received by
26 the district. To receive notice of a rulemaking hearing in a later
27 year, a person must submit a new request. An affidavit of an

1 officer or employee of the district establishing attempted service
2 by first class mail, facsimile, or e-mail to the person in
3 accordance with the information provided by the person is proof
4 that notice was provided by the district.

5 (j) A district may use an informal conference or
6 consultation to obtain the opinions and advice of interested
7 persons about contemplated rules and may appoint advisory
8 committees of experts, interested persons, or public
9 representatives to advise the district about contemplated rules.

10 (k) Failure to provide notice under Subsection (d)(4) does
11 not invalidate an action taken by the district at a rulemaking
12 hearing.

13 (l) Subsections (b)-(k) do not apply to the Edwards Aquifer
14 Authority.

15 SECTION 4. Subchapter D, Chapter 36, Water Code, is amended
16 by adding Section 36.1011 to read as follows:

17 Sec. 36.1011. EMERGENCY RULES. (a) A board may adopt an
18 emergency rule without prior notice or hearing, or with an
19 abbreviated notice and hearing, if the board:

20 (1) finds that a substantial likelihood of imminent
21 peril to the public health, safety, or welfare, or a requirement of
22 state or federal law, requires adoption of a rule on less than 20
23 days' notice; and

24 (2) prepares a written statement of the reasons for
25 its finding under Subdivision (1).

26 (b) Except as provided by Subsection (c), a rule adopted
27 under this section may not be effective for longer than 90 days.

1 (c) If notice of a hearing on the final rule is given not
2 later than the 90th day after the date the rule is adopted, the rule
3 is effective for an additional 90 days.

4 (d) A rule adopted under this section must be adopted at a
5 meeting held as provided by Chapter 551, Government Code.

6 (e) This section does not apply to the Edwards Aquifer
7 Authority.

8 SECTION 5. Sections 36.1071(a), (b), and (d)-(h), Water
9 Code, are amended to read as follows:

10 (a) Following notice and hearing, the district shall, in
11 coordination with surface water management entities on a regional
12 basis, develop a comprehensive management plan which addresses the
13 following management goals, as applicable:

- 14 (1) providing the most efficient use of groundwater;
- 15 (2) controlling and preventing waste of groundwater;
- 16 (3) controlling and preventing subsidence;
- 17 (4) addressing conjunctive surface water management
18 issues;
- 19 (5) addressing natural resource issues;
- 20 (6) addressing drought conditions; ~~and~~
- 21 (7) addressing conservation, recharge enhancement,
22 rainwater harvesting, precipitation enhancement, or brush control,
23 where appropriate and cost-effective; and
- 24 (8) addressing in a quantitative manner the desired
25 future conditions of the groundwater resources.

26 (b) A [~~After January 5, 2002, a~~] district management plan,
27 or any amendments to a district management plan, shall be developed

1 by the district using the district's best available data and
2 forwarded to the regional water planning group for use
3 ~~[consideration]~~ in their planning process.

4 (d) The commission shall provide technical assistance to a
5 district during its initial operational phase. If requested by a
6 district, the Texas Water Development Board shall train the
7 district on basic data collection methodology and provide technical
8 assistance to districts.

9 (e) In the management plan described under Subsection (a),
10 the district shall:

11 (1) identify the performance standards and management
12 objectives under which the district will operate to achieve the
13 management goals identified under Subsection (a);

14 (2) specify, in as much detail as possible, the
15 actions, procedures, performance, and avoidance that are or may be
16 necessary to effect the plan, including specifications and proposed
17 rules;

18 (3) include estimates of the following:

19 (A) managed available ~~[the existing total usable~~
20 ~~amount of]~~ groundwater in the district based on the desired future
21 condition established under Section 36.108;

22 (B) the amount of groundwater being used within
23 the district on an annual basis;

24 (C) the annual amount of recharge from
25 precipitation, if any, to the groundwater resources within the
26 district ~~[and how natural or artificial recharge may be increased];~~

27 ~~[and]~~

1 (D) for each aquifer, the annual volume of water
2 that discharges from the aquifer to springs and any surface water
3 bodies, including lakes, streams, and rivers;

4 (E) the annual volume of flow into and out of the
5 district within each aquifer and between aquifers in the district,
6 if a groundwater availability model is available;

7 (F) the projected surface water supply in the
8 district according to the most recently adopted state water plan;
9 and

10 (G) the projected total demand for water in the
11 district according to the most recently adopted state water plan
12 [projected water supply and demand for water within the district];
13 and

14 (4) consider the [address] water supply needs and
15 water management strategies included in [a manner that is not in
16 conflict with] the adopted state [appropriate approved regional]
17 water plan [if a regional water plan has been approved under Section
18 16.053].

19 (f) The district shall adopt rules necessary to implement
20 the management plan. Prior to the development of the management
21 plan and its approval under Section 36.1072, the district may not
22 adopt rules other than rules pertaining to the registration and
23 interim permitting of new and existing wells and rules governing
24 spacing and procedure before the district's board; however, the
25 district may not adopt any rules limiting the production of wells,
26 except rules requiring that groundwater produced from a well be put
27 to a nonwasteful, beneficial use. The district may accept

1 applications for permits under Section 36.113, provided the
2 district does not act on any such application until the district's
3 management plan is approved as provided in Section 36.1072.

4 (g) The district [~~board~~] shall adopt amendments to the
5 management plan as necessary. Amendments to the management plan
6 shall be adopted after notice and hearing and shall otherwise
7 comply with the requirements of this section.

8 (h) In developing its management plan, the district shall
9 use the groundwater availability modeling information provided by
10 the executive administrator together [~~in conjunction~~] with any
11 available site-specific information that has been provided by the
12 district to the executive administrator for review and comment
13 before being used in the plan [~~and acceptable to the executive~~
14 ~~administrator~~].

15 SECTION 6. Section 36.1072, Water Code, is amended to read
16 as follows:

17 Sec. 36.1072. TEXAS WATER DEVELOPMENT BOARD REVIEW AND
18 APPROVAL [~~CERTIFICATION~~] OF MANAGEMENT PLAN. (a) A district
19 shall, not later than three [~~two~~] years after the creation of the
20 district or, if the district required confirmation, after the
21 election confirming the district's creation, submit the management
22 plan required under Section 36.1071 to the executive administrator
23 for review and approval [~~certification~~].

24 (b) Within 60 days of receipt of a management plan adopted
25 under Section 36.1071, readopted under Subsection (e) or (g) of
26 this section, or amended under Section 36.1073, the executive
27 administrator shall approve [~~certify~~] a management plan if the plan

1 is administratively complete. A management plan is
 2 administratively complete when it contains the information
 3 required to be submitted under Section 36.1071(a) and (e). The
 4 executive administrator may determine whether ~~[that]~~ conditions
 5 justify waiver of the requirements under Section 36.1071(e)(4).

6 (c) Once the executive administrator has approved a
 7 ~~[determination that a]~~ management plan ~~[is administratively~~
 8 ~~complete has been made]~~:

9 (1) the executive administrator may not revoke but may
 10 require revisions to the approved groundwater conservation
 11 district management plan as provided by Subsection (g)
 12 ~~[determination that a management plan is administratively~~
 13 ~~complete]; and~~

14 (2) the executive administrator may request
 15 additional information from the district if the information is
 16 necessary to clarify, modify, or supplement previously submitted
 17 material, but ~~[, and~~

18 ~~(3)]~~ a request for additional information does not
 19 render the management plan unapproved ~~[incomplete]~~.

20 (d) A management plan takes effect on approval
 21 ~~[certification]~~ by the executive administrator or, if appealed, on
 22 approval ~~[certification]~~ by the Texas Water Development Board.

23 (e) The district ~~[board]~~ may review the plan annually and
 24 must review and readopt the plan with or without revisions at least
 25 once every five years. The district shall provide the readopted
 26 plan to the executive administrator not later than the 60th day
 27 after the date on which the plan was readopted. Approval of the

1 preceding management plan remains in effect until:

2 (1) the district fails to timely readopt a management
3 plan;

4 (2) the district fails to timely submit the district's
5 readopted management plan to the executive administrator; or

6 (3) the executive administrator determines that the
7 readopted management plan does not meet the requirements for
8 approval, and the district has exhausted all appeals to the Texas
9 Water Development Board or appropriate court.

10 (f) If the executive administrator does not approve
11 [~~certify~~] the management plan, the executive administrator shall
12 provide to the district, in writing, the reasons for the action.
13 Not later than the 180th day after the date a district receives
14 notice that its management plan has not been approved [~~certified~~],
15 the district may submit a revised management plan for review and
16 approval [~~certification~~]. The executive administrator's decision
17 may be appealed to the Texas Water Development Board. If the Texas
18 Water Development Board decides not to approve the management plan
19 on appeal, the district may request that the conflict be mediated.
20 The district and the board may seek the assistance of the Center for
21 Public Policy Dispute Resolution at The University of Texas School
22 of Law or an alternative dispute resolution system established
23 under Chapter 152, Civil Practice and Remedies Code, in obtaining a
24 qualified impartial third party to mediate the conflict. The cost
25 of the mediation services must be specified in the agreement
26 between the parties and the Center for Public Policy Dispute
27 Resolution or the alternative dispute resolution system. If the

1 parties do not resolve the conflict through mediation, the [The]
2 decision of the Texas Water Development Board not [~~on whether~~] to
3 approve [~~certify~~] the management plan may [~~not~~] be appealed to a
4 district court in Travis County. Costs for the appeal shall be set
5 by the court hearing the appeal. An appeal under this subsection is
6 by trial de novo. The commission shall not take enforcement action
7 against a district under Subchapter I until the later of the
8 expiration of the 180-day period, [~~or~~] the date the Texas Water
9 Development Board has taken final action withholding approval
10 [~~certification~~] of a revised management plan, the date the
11 mediation is completed, or the date a final judgment upholding the
12 board's decision is entered by a district court. An enforcement
13 action may not be taken against a district by the commission or the
14 state auditor under Subchapter I because the district's management
15 plan and the approved regional water plan are in conflict while the
16 parties are attempting to resolve the conflict before the
17 development board, in mediation, or in court. Rules of the district
18 continue in full force and effect until all appeals under this
19 subsection have been exhausted and the final judgment is adverse to
20 the district.

21 (g) In this subsection, "development board" means the Texas
22 Water Development Board. A person with a legally defined interest
23 in groundwater in a district or the regional water planning group
24 may file a petition with the development board stating that a
25 conflict requiring resolution may exist between the district's
26 approved [~~certified groundwater conservation district~~] management
27 plan developed under Section 36.1071 and the state water plan. If a

1 conflict exists, the development board shall provide technical
2 assistance to and facilitate coordination between the involved
3 person or regional water planning group and the district to resolve
4 the conflict. Not later than the 45th day after the date the person
5 or the regional water planning group files a petition with the
6 development board, if the conflict has not been resolved, the
7 district and the involved person or regional planning group may
8 mediate the conflict. The district and the involved person or
9 regional planning group may seek the assistance of the Center for
10 Public Policy Dispute Resolution at The University of Texas School
11 of Law or an alternative dispute resolution system established
12 under Chapter 152, Civil Practice and Remedies Code, in obtaining a
13 qualified impartial third party to mediate the conflict. The cost
14 of the mediation services must be specified in the agreement
15 between the parties and the Center for Public Policy Dispute
16 Resolution or the alternative dispute resolution system. If the
17 district and the involved person or regional planning group cannot
18 resolve the conflict through mediation ~~[remains]~~, the development
19 board shall resolve the conflict not later than the 60th day after
20 the date the mediation is completed. The development board action
21 under this provision may be consolidated, at the option of the
22 board, with related action under Section 16.053(p). If the
23 development board determines that resolution of the conflict
24 requires a revision of the approved ~~[certified]~~ groundwater
25 conservation district management plan, the development board shall
26 ~~[suspend the certification of the plan and]~~ provide information to
27 the district. The district shall prepare any revisions to the plan

1 based on the information provided [~~specified~~] by the development
2 board and shall hold, after notice, at least one public hearing at
3 some central location within the district. The district shall
4 consider all public and development board comments, prepare,
5 revise, and adopt its plan, and submit the revised plan to the
6 development board for approval [~~certification~~]. On the request of
7 the district or the regional water planning group, the development
8 board shall include discussion of the conflict and its resolution
9 in the state water plan that the development board provides to the
10 governor, the lieutenant governor, and the speaker of the house of
11 representatives under Section 16.051(e). If the groundwater
12 conservation district disagrees with the decision of the
13 development board under this subsection, the district may appeal
14 the decision to a district court in Travis County. Costs for the
15 appeal shall be set by the court hearing the appeal. An appeal
16 under this subsection is by trial de novo.

17 SECTION 7. Section 36.1073, Water Code, is amended to read
18 as follows:

19 Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment
20 to the management plan shall be submitted to the executive
21 administrator within 60 days following adoption of the amendment by
22 the district's board. The executive administrator shall review and
23 approve [~~certify~~] any amendment which substantially affects the
24 management plan in accordance with the procedures established under
25 Section 36.1072.

26 SECTION 8. Section 36.108, Water Code, is amended to read as
27 follows:

1 Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) In
2 this section, "development board" means the Texas Water Development
3 Board.

4 (b) If two or more districts are located within the
5 boundaries of the same management area, each district shall prepare
6 a comprehensive management plan as required by Section 36.1071
7 covering that district's respective territory. On completion and
8 approval [~~certification~~] of the plan as required by Section
9 36.1072, each district shall forward a copy of the new or revised
10 management plan to the other districts in the management area. The
11 boards of the districts shall consider the plans individually and
12 shall compare them to other management plans then in force in the
13 management area.

14 (c) The presiding officer, or the presiding officer's
15 designee, of [~~(b) The board of directors of~~] each district located
16 in whole or in part in the management area shall meet at least
17 annually to conduct [~~may, by resolution, call for~~] joint planning
18 with the other districts in the management area and to review the
19 management plans and accomplishments for the management area. In
20 reviewing the management plans, the districts [~~boards~~] shall
21 consider:

22 (1) the goals of each management plan and its impact on
23 planning throughout the management area;

24 (2) the effectiveness of the measures established by
25 each management plan for conserving and protecting groundwater and
26 preventing waste, and the effectiveness of these measures in the
27 management area generally; [~~and~~]

1 (3) any other matters that the boards consider
2 relevant to the protection and conservation of groundwater and the
3 prevention of waste in the management area; and

4 (4) the degree to which each management plan achieves
5 the desired future conditions established during the joint planning
6 process.

7 (d) Not later than September 1, 2010, and every five years
8 thereafter, the districts shall consider groundwater availability
9 models and other data or information for the management area and
10 shall establish desired future conditions for the relevant aquifers
11 within the management area. In establishing the desired future
12 conditions of the aquifers under this section, the districts shall
13 consider uses or conditions of an aquifer within the management
14 area that differ substantially from one geographic area to another.
15 The districts may establish different desired future conditions
16 for:

17 (1) each aquifer, subdivision of an aquifer, or
18 geologic strata located in whole or in part within the boundaries of
19 the management area; or

20 (2) each geographic area overlying an aquifer in whole
21 or in part or subdivision of an aquifer within the boundaries of the
22 management area.

23 (d-1) The desired future conditions established under
24 Subsection (d) must be adopted by a two-thirds vote of the district
25 representatives present at a meeting:

26 (1) at which at least two-thirds of the districts
27 located in whole or in part in the management area have a voting

1 representative in attendance; and

2 (2) for which all districts located in whole or in part
3 in the management area provide public notice in accordance with
4 Chapter 551, Government Code.

5 (d-2) Each district in the management area shall ensure that
6 its management plan contains goals and objectives consistent with
7 achieving the desired future conditions of the relevant aquifers as
8 adopted during the joint planning process.

9 (e) A [~~(c)~~ If a] joint meeting under this section must be
10 [~~of the boards of directors is called, the meeting must be~~] held in
11 accordance with Chapter 551, Government Code. Each district shall
12 comply with Chapter 552, Government Code. Notice of the meeting
13 shall be given in accordance with the requirements for notice of
14 district board of directors meetings under that Act.

15 (f) [~~(d)~~] A district or person with a legally defined
16 interest in the groundwater within [~~in~~] the management area may
17 file [~~with good cause~~] a petition with the commission requesting an
18 inquiry if a [~~the petitioner district adopted a resolution calling~~
19 ~~for joint planning and the other~~] district or districts refused to
20 join in the planning process or the process failed to result in
21 adequate planning, including the establishment of reasonable
22 future desired conditions of the aquifers, and the petition
23 provides evidence that:

24 (1) a [~~another~~] district in the groundwater management
25 area has failed to adopt rules;

26 (2) the rules adopted by a district are not designed to
27 achieve the desired future condition of the groundwater resources

1 in the groundwater management area established during the joint
2 planning process;

3 (3) the groundwater in the management area is not
4 adequately protected by the rules adopted by a a [~~another~~] district;
5 or

6 (4) [~~(3)~~] the groundwater in the groundwater
7 management area is not adequately protected due to the failure of a
8 [~~another~~] district to enforce substantial compliance with its
9 rules.

10 (g) [~~(e)~~] Not later than the 90th day after the date the
11 petition is filed, the commission shall review the petition and
12 either:

13 (1) dismiss the petition if the commission [~~it if~~
14 ~~it~~] finds that the evidence is not adequate to show that any of the
15 conditions alleged in the petition exist; or

16 (2) select a review panel as provided in Subsection
17 (h) [~~(f)~~].

18 (h) [~~(f)~~] If the petition is not dismissed under Subsection
19 (g) [~~(e)~~], the commission shall appoint a review panel consisting
20 of a chairman and four other members. A director or general manager
21 of a district located outside the groundwater management area that
22 is the subject of the petition may be appointed to the review panel.
23 The commission may not appoint more than two members of the review
24 panel from any one district. The commission also shall appoint a
25 disinterested person to serve as a nonvoting recording secretary
26 for the review panel. The recording secretary may be an employee of
27 the commission. The recording secretary shall record and document

1 the proceedings of the panel.

2 (i) [~~(g)~~] Not later than the 120th day after appointment,
3 the review panel shall review the petition and any evidence
4 relevant to the petition and, in a public meeting, consider and
5 adopt a report to be submitted to the commission. The commission
6 may direct the review panel to conduct public hearings at a location
7 in the groundwater management area to take evidence on the
8 petition. The review panel may attempt to negotiate a settlement or
9 resolve the dispute by any lawful means.

10 (j) [~~(h)~~] In its report, the review panel shall include:

11 (1) a summary of all evidence taken in any hearing on
12 the petition;

13 (2) a list of findings and recommended actions
14 appropriate for the commission to take and the reasons it finds
15 those actions appropriate; and

16 (3) any other information the panel considers
17 appropriate.

18 (k) [~~(i)~~] The review panel shall submit its report to the
19 commission. The commission may take action under Section 36.3011.

20 (l) A person with a legally defined interest in the
21 groundwater in the groundwater management area, a district in or
22 adjacent to the groundwater management area, or a regional water
23 planning group for a region in the groundwater management area may
24 file a petition with the development board appealing the approval
25 of the desired future conditions of the groundwater resources
26 established under this section. The petition must provide evidence
27 that the districts did not establish a reasonable desired future

1 condition of the groundwater resources in the groundwater
2 management area.

3 (m) The development board shall review the petition and any
4 evidence relevant to the petition. The development board shall
5 hold at least one hearing at a central location in the management
6 area to take testimony on the petition. The development board may
7 delegate responsibility for a hearing to the executive
8 administrator or to a person designated by the executive
9 administrator. If the development board finds that the conditions
10 require revision, the development board shall submit a report to
11 the districts that includes a list of findings and recommended
12 revisions to the desired future conditions of the groundwater
13 resources.

14 (n) The districts shall prepare a revised plan in accordance
15 with development board recommendations and hold, after notice, at
16 least one public hearing at a central location in the groundwater
17 management area. After consideration of all public and development
18 board comments, the districts shall revise the conditions and
19 submit the conditions to the development board for review.

20 (o) The districts shall submit the conditions established
21 under this section to the executive administrator. The executive
22 administrator shall provide each district and regional water
23 planning group located wholly or partly in the management area with
24 the managed available groundwater in the management area based upon
25 the desired future condition of the groundwater resources
26 established under this section.

27 (p) [~~(j)~~] Districts located within the same groundwater

1 management areas or in adjacent management areas may contract to
2 jointly conduct studies or research, or to construct projects,
3 under terms and conditions that the districts consider beneficial.
4 These joint efforts may include studies of groundwater availability
5 and quality, aquifer modeling, and the interaction of groundwater
6 and surface water; educational programs; the purchase and sharing
7 of equipment; and the implementation of projects to make
8 groundwater available, including aquifer recharge, brush control,
9 weather modification, desalination, regionalization, and treatment
10 or conveyance facilities. The districts may contract under their
11 existing authorizations including those of Chapter 791, Government
12 Code, if their contracting authority is not limited by Sections
13 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

14 SECTION 9. Section 36.109, Water Code, is amended to read as
15 follows:

16 Sec. 36.109. COLLECTION OF INFORMATION. A district may
17 collect any information the board deems necessary, including
18 information regarding the use of groundwater, water conservation,
19 and the practicability of recharging a groundwater reservoir. At
20 the request of the executive administrator, the district shall
21 provide any data collected by the district in a format acceptable to
22 the executive administrator.

23 SECTION 10. Sections 36.113 and 36.114, Water Code, are
24 amended to read as follows:

25 Sec. 36.113. PERMITS FOR WELLS; PERMIT AMENDMENTS. (a)
26 Except as provided by Section 36.117, a [A] district shall require a
27 permit [permits] for the drilling, equipping, operating, or

1 completing of wells or for substantially altering the size of wells
2 or well pumps. A district may require that a change in the
3 withdrawal or use of groundwater during the term of a permit issued
4 by the district may not be made unless the district has first
5 approved a permit amendment authorizing the change.

6 (a-1) A district may not require a permit or a permit
7 amendment for maintenance or repair of a well if the maintenance or
8 repair does not increase the production capabilities of the well to
9 more than its authorized or permitted production rate.

10 (b) A district shall require that an application for a
11 permit or a permit amendment be in writing and sworn to.

12 (c) A district may require that the following be included in
13 the permit or permit amendment application:

14 (1) the name and mailing address of the applicant and
15 the owner of the land on which the well will be located;

16 (2) if the applicant is other than the owner of the
17 property, documentation establishing the applicable authority to
18 construct and operate a well for the proposed use;

19 (3) a statement of the nature and purpose of the
20 proposed use and the amount of water to be used for each purpose;

21 (4) a water conservation plan or a declaration that
22 the applicant will comply with the district's management plan;

23 (5) the location of each well and the estimated rate at
24 which water will be withdrawn;

25 (6) a water well closure plan or a declaration that the
26 applicant will comply with well plugging guidelines and report
27 closure to the commission; and

1 (7) a drought contingency plan.

2 (d) Before granting or denying a permit or permit amendment,
3 the district shall consider whether:

4 (1) the application conforms to the requirements
5 prescribed by this chapter and is accompanied by the prescribed
6 fees;

7 (2) the proposed use of water unreasonably affects
8 existing groundwater and surface water resources or existing permit
9 holders;

10 (3) the proposed use of water is dedicated to any
11 beneficial use;

12 (4) the proposed use of water is consistent with the
13 district's certified water management plan;

14 (5) the applicant has agreed to avoid waste and
15 achieve water conservation; and

16 (6) the applicant has agreed that reasonable diligence
17 will be used to protect groundwater quality and that the applicant
18 will follow well plugging guidelines at the time of well closure.

19 (e) The district may impose more restrictive permit
20 conditions on new permit applications and permit amendment
21 applications to increase [~~increased~~] use by historic users if the
22 limitations:

23 (1) apply to all subsequent new permit applications
24 and permit amendment applications to increase [~~increased~~] use by
25 historic users, regardless of type or location of use;

26 (2) bear a reasonable relationship to the existing
27 district management plan; and

1 (3) are reasonably necessary to protect existing use.

2 (f) Permits and permit amendments may be issued subject to
3 the rules promulgated by the district and subject to terms and
4 provisions with reference to the drilling, equipping, completion,
5 ~~[or]~~ alteration, or operation of, or production of groundwater
6 from, [of] wells or pumps that may be necessary to prevent waste and
7 achieve water conservation, minimize as far as practicable the
8 drawdown of the water table or the reduction of artesian pressure,
9 lessen interference between wells, or control and prevent
10 subsidence.

11 ~~[(g) A district may require that changes in the withdrawal~~
12 ~~and use of groundwater under a permit not be made without the prior~~
13 ~~approval of a permit amendment issued by the district.]~~

14 Sec. 36.114. PERMIT; PERMIT AMENDMENT; APPLICATION AND
15 HEARING. (a) The district by rule shall determine each activity
16 regulated by the district for which a permit or permit amendment is
17 required.

18 (b) For each activity for which the district determines a
19 permit or permit amendment is required under Subsection (a), the
20 district by rule shall determine whether a hearing on the permit or
21 permit amendment application is required.

22 (c) For all applications for which a hearing is not required
23 under Subsection (b), the board shall act on the application at a
24 meeting, as defined by Section 551.001, Government Code, unless the
25 board by rule has delegated to the general manager the authority to
26 act on the application.

27 (d) The district shall promptly consider and act on each

1 administratively complete application for a permit or permit
2 amendment as provided by Subsection (c) or Subchapter M.

3 (e) If, within 60 [~~30~~] days after the date an [~~the~~]
4 administratively complete application is submitted, the [~~an~~]
5 application has not been acted on or set for a hearing on a specific
6 date, the applicant may petition the district court of the county
7 where the land is located for a writ of mandamus to compel the
8 district to act on the application or set a date for a hearing on the
9 application, as appropriate.

10 (f) For applications requiring a hearing, the initial [~~A~~]
11 hearing shall be held within 35 days after the setting of the date,
12 and the district shall act on the application within 60 [~~35~~] days
13 after the date [~~of~~] the final hearing on the application is
14 concluded.

15 (g) The district may by rule set a time when an application
16 will expire if the information requested in the application is not
17 provided to the district.

18 (h) An administratively complete application requires
19 information set forth in accordance with Sections 36.113 and
20 36.1131.

21 SECTION 11. Subchapter D, Chapter 36, Water Code, is
22 amended by adding Section 36.1132 to read as follows:

23 Sec. 36.1132. PERMITS BASED ON MANAGED AVAILABLE
24 GROUNDWATER. A district, to the extent possible, shall issue
25 permits up to the point that the total volume of groundwater
26 permitted equals the managed available groundwater, if
27 administratively complete permit applications are submitted to the

1 district.

2 SECTION 12. Sections 36.116(a) and (b), Water Code, are
3 amended as follows:

4 (a) In order to minimize as far as practicable the drawdown
5 of the water table or the reduction of artesian pressure, to control
6 subsidence, to prevent interference between wells, to prevent
7 degradation of water quality, or to prevent waste, a district by
8 rule may regulate:

9 (1) the spacing of water wells by:

10 (A) requiring all water wells to be spaced a
11 certain distance from property lines or adjoining wells;

12 (B) requiring wells with a certain production
13 capacity, pump size, or other characteristic related to the
14 construction or operation of and production from a well to be spaced
15 a certain distance from property lines or adjoining wells; or

16 (C) imposing spacing requirements adopted by the
17 board; and

18 (2) the production of groundwater by:

19 (A) setting production limits on wells;

20 (B) limiting the amount of water produced based
21 on acreage or tract size;

22 (C) limiting the amount of water that may be
23 produced from a defined number of acres assigned to an authorized
24 well site;

25 (D) limiting the maximum amount of water that may
26 be produced on the basis of acre-feet per acre or gallons per minute
27 per well site per acre; [~~or~~]

1 (E) managed depletion; or
2 (F) any combination of the methods listed above
3 in Paragraphs (A) through (E) [~~(D)~~].

4 (b) In promulgating any rules limiting groundwater
5 production, the district may preserve historic or existing use
6 before the effective date of the rules to the maximum extent
7 practicable consistent with the district's comprehensive
8 management plan under Section 36.1071 and as provided by Section
9 36.113.

10 SECTION 13. Section 36.3011, Water Code, is amended to read
11 as follows:

12 Sec. 36.3011. FAILURE OF [A] DISTRICT TO CONDUCT JOINT
13 PLANNING. [~~(a) If the board of a district within a common~~
14 ~~management area fails to forward a copy of its new or revised~~
15 ~~certified management plan under Section 36.108, the commission~~
16 ~~shall take appropriate action under Section 36.303.~~

17 [~~(b)~~] Not later than the 45th day after receiving the review
18 panel's report under Section 36.108, the executive director or the
19 commission shall take action to implement any or all of the panel's
20 recommendations. The commission may take any action against a
21 district it considers necessary in accordance with Section 36.303
22 if [~~if~~] the commission finds that:

23 (1) a district [~~in the joint planning area~~] has failed
24 to submit its plan to the executive administrator;

25 (2) a district has failed to adopt rules;

26 (3) the rules adopted by the district are not designed
27 to achieve the desired future condition of the groundwater

1 resources in the groundwater management area; or

2 (4)~~[7]~~ the groundwater in the management area is not
3 adequately protected by the rules adopted by the district, or the
4 groundwater in the management area is not adequately protected
5 because of the district's failure to enforce substantial compliance
6 with its rules~~[, the commission may take any action it considers~~
7 ~~necessary in accordance with Section 36.303]~~.

8 SECTION 14. Section 36.302(d), Water Code, is amended to
9 read as follows:

10 (d) The state auditor may perform the review under
11 Subsection (a) following the first anniversary of the initial
12 approval ~~[certification]~~ of the plan ~~[by the Texas Water~~
13 ~~Development Board]~~ under Section 36.1072 and at least as often as
14 once every seven years after that date, subject to a risk assessment
15 and to the legislative audit committee's approval of including the
16 review in the audit plan under Section 321.013, Government Code.

17 SECTION 15. Section 36.304(a), Water Code, is amended to
18 read as follows:

19 (a) The commission may dissolve a district that~~+~~
20 ~~[(1) is not operational, as determined under Section~~
21 ~~36.302, and~~

22 ~~[(2)]~~ has no outstanding bonded indebtedness.

23 SECTION 16. Subchapter L, Chapter 36, Water Code, is
24 amended by adding Section 36.3705 to read as follows:

25 Sec. 36.3705. DEFINITION. In this subchapter, "applicant"
26 means a newly confirmed district applying for a loan from the loan
27 fund.

1 SECTION 17. Chapter 36, Water Code, is amended by adding
2 Subchapter M to read as follows:

3 SUBCHAPTER M. PERMIT AND PERMIT AMENDMENT APPLICATIONS;

4 NOTICE AND HEARING PROCESS

5 Sec. 36.401. DEFINITION. In this subchapter, "applicant"
6 means a person who is applying for a permit or a permit amendment.

7 Sec. 36.402. APPLICABILITY. Except as provided by Section
8 36.416, this subchapter applies to the notice and hearing process
9 used by a district for permit and permit amendment applications.

10 Sec. 36.403. SCHEDULING OF HEARING. (a) The general
11 manager or board may schedule a hearing on permit or permit
12 amendment applications received by the district as necessary, as
13 provided by Section 36.114.

14 (b) The general manager or board may schedule more than one
15 application for consideration at a hearing.

16 (c) A hearing must be held at the district office or regular
17 meeting location of the board unless the board provides for
18 hearings to be held at a different location.

19 (d) A hearing may be held in conjunction with a regularly
20 scheduled board meeting.

21 Sec. 36.404. NOTICE. (a) If the general manager or board
22 schedules a hearing on an application for a permit or permit
23 amendment, the general manager or board shall give notice of the
24 hearing as provided by this section.

25 (b) The notice must include:

26 (1) the name of the applicant;

27 (2) the address or approximate location of the well or

1 proposed well;

2 (3) a brief explanation of the proposed permit or
3 permit amendment, including any requested amount of groundwater,
4 the purpose of the proposed use, and any change in use;

5 (4) the time, date, and location of the hearing; and

6 (5) any other information the general manager or board
7 considers relevant and appropriate.

8 (c) Not later than the 10th day before the date of a hearing,
9 the general manager or board shall:

10 (1) post notice in a place readily accessible to the
11 public at the district office;

12 (2) provide notice to the county clerk of each county
13 in the district; and

14 (3) provide notice by:

15 (A) regular mail to the applicant;

16 (B) regular mail, facsimile, or electronic mail
17 to any person who has requested notice under Subsection (d); and

18 (C) regular mail to any other person entitled to
19 receive notice under the rules of the district.

20 (d) A person may request notice from the district of a
21 hearing on a permit or a permit amendment application. The request
22 must be in writing and is effective for the remainder of the
23 calendar year in which the request is received by the district. To
24 receive notice of a hearing in a later year, a person must submit a
25 new request. An affidavit of an officer or employee of the district
26 establishing attempted service by first class mail, facsimile, or
27 e-mail to the person in accordance with the information provided by

1 the person is proof that notice was provided by the district.

2 (e) Failure to provide notice under Subsection (c)(3)(B)
3 does not invalidate an action taken by the district at the hearing.

4 Sec. 36.405. HEARING REGISTRATION. The district may
5 require each person who participates in a hearing to submit a
6 hearing registration form stating:

7 (1) the person's name;

8 (2) the person's address; and

9 (3) whom the person represents, if the person is not
10 there in the person's individual capacity.

11 Sec. 36.406. HEARING PROCEDURES. (a) A hearing must be
12 conducted by:

13 (1) a quorum of the board; or

14 (2) an individual to whom the board has delegated in
15 writing the responsibility to preside as a hearings examiner over
16 the hearing or matters related to the hearing.

17 (b) Except as provided by Subsection (c), the board
18 president or the hearings examiner shall serve as the presiding
19 officer at the hearing.

20 (c) If the hearing is conducted by a quorum of the board and
21 the board president is not present, the directors conducting the
22 hearing may select a director to serve as the presiding officer.

23 (d) The presiding officer may:

24 (1) convene the hearing at the time and place
25 specified in the notice;

26 (2) set any necessary additional hearing dates;

27 (3) designate the parties regarding a contested

1 application;

2 (4) establish the order for presentation of evidence;

3 (5) administer oaths to all persons presenting
4 testimony;

5 (6) examine persons presenting testimony;

6 (7) ensure that information and testimony are
7 introduced as conveniently and expeditiously as possible without
8 prejudicing the rights of any party;

9 (8) prescribe reasonable time limits for testimony and
10 the presentation of evidence; and

11 (9) exercise the procedural rules adopted under
12 Section 36.415.

13 (e) Except as provided by a rule adopted under Section
14 36.415, a district may allow any person, including the general
15 manager or a district employee, to provide comments at a hearing on
16 an uncontested application.

17 (f) The presiding officer may allow testimony to be
18 submitted in writing and may require that written testimony be
19 sworn to. On the motion of a party to the hearing, the presiding
20 officer may exclude written testimony if the person who submits the
21 testimony is not available for cross-examination by phone, a
22 deposition before the hearing, or other reasonable means.

23 (g) If the board has not acted on the application, the
24 presiding officer may allow a person who testifies at the hearing to
25 supplement the testimony given at the hearing by filing additional
26 written materials with the presiding officer not later than the
27 10th day after the date of the hearing. A person who files

1 additional written material with the presiding officer under this
2 subsection must also provide the material, not later than the 10th
3 day after the date of the hearing, to any person who provided
4 comments on an uncontested application or any party to a contested
5 hearing. A person who receives additional written material under
6 this subsection may file a response to the material with the
7 presiding officer not later than the 10th day after the date the
8 material was received.

9 (h) The district by rule adopted under Section 36.417 may
10 authorize the presiding officer, at the presiding officer's
11 discretion, to issue an order at any time before board action under
12 Section 36.411 that:

13 (1) refers parties to a contested hearing to an
14 alternative dispute resolution procedure on any matter at issue in
15 the hearing;

16 (2) determines how the costs of the procedure shall be
17 apportioned among the parties; and

18 (3) appoints an impartial third party as provided by
19 Section 2009.053, Government Code, to facilitate that procedure.

20 Sec. 36.407. EVIDENCE. (a) The presiding officer shall
21 admit evidence that is relevant to an issue at the hearing.

22 (b) The presiding officer may exclude evidence that is
23 irrelevant, immaterial, or unduly repetitious.

24 Sec. 36.408. RECORDING. (a) Except as provided by
25 Subsection (b), the presiding officer shall prepare and keep a
26 record of each hearing in the form of an audio or video recording or
27 a court reporter transcription. On the request of a party to a

1 contested hearing, the presiding officer shall have the hearing
2 transcribed by a court reporter. The presiding officer may assess
3 any court reporter transcription costs against the party that
4 requested the transcription or among the parties to the hearing.
5 Except as provided by this subsection, the presiding officer may
6 exclude a party from further participation in a hearing for failure
7 to pay in a timely manner costs assessed against that party under
8 this subsection. The presiding officer may not exclude a party from
9 further participation in a hearing as provided by this subsection
10 if the parties have agreed that the costs assessed against that
11 party will be paid by another party.

12 (b) If a hearing is uncontested, the presiding officer may
13 substitute minutes or the report required under Section 36.410 for
14 a method of recording the hearing provided by Subsection (a).

15 Sec. 36.409. CONTINUANCE. The presiding officer may
16 continue a hearing from time to time and from place to place without
17 providing notice under Section 36.404. If the presiding officer
18 continues a hearing without announcing at the hearing the time,
19 date, and location of the continued hearing, the presiding officer
20 must provide notice of the continued hearing by regular mail to the
21 parties.

22 Sec. 36.410. REPORT. (a) Except as provided by Subsection
23 (e), the presiding officer shall submit a report to the board not
24 later than the 30th day after the date a hearing is concluded.

25 (b) The report must include:

26 (1) a summary of the subject matter of the hearing;

27 (2) a summary of the evidence or public comments

1 received; and

2 (3) the presiding officer's recommendations for board
3 action on the subject matter of the hearing.

4 (c) The presiding officer or general manager shall provide a
5 copy of the report to:

6 (1) the applicant; and

7 (2) each person who provided comments or each
8 designated party.

9 (d) A person who receives a copy of the report under
10 Subsection (c) may submit to the board written exceptions to the
11 report.

12 (e) If the hearing was conducted by a quorum of the board and
13 if the presiding officer prepared a record of the hearing as
14 provided by Section 36.408(a), the presiding officer shall
15 determine whether to prepare and submit a report to the board under
16 this section.

17 Sec. 36.411. BOARD ACTION. The board shall act on a permit
18 or permit amendment application not later than the 60th day after
19 the date the final hearing on the application is concluded.

20 Sec. 36.412. REQUEST FOR REHEARING OR FINDINGS AND
21 CONCLUSIONS. (a) An applicant in a contested or uncontested
22 hearing on an application or a party to a contested hearing may
23 administratively appeal a decision of the board on a permit or
24 permit amendment application by requesting written findings and
25 conclusions or a rehearing before the board not later than the 20th
26 day after the date of the board's decision.

27 (b) On receipt of a timely written request, the board shall

1 make written findings and conclusions regarding a decision of the
2 board on a permit or permit amendment application. The board shall
3 provide certified copies of the findings and conclusions to the
4 person who requested them, and to each person who provided comments
5 or each designated party, not later than the 35th day after the date
6 the board receives the request. A person who receives a certified
7 copy of the findings and conclusions from the board may request a
8 rehearing before the board not later than the 20th day after the
9 date the board issues the findings and conclusions.

10 (c) A request for rehearing must be filed in the district
11 office and must state the grounds for the request. If the original
12 hearing was a contested hearing, the person requesting a rehearing
13 must provide copies of the request to all parties to the hearing.

14 (d) If the board grants a request for rehearing, the board
15 shall schedule the rehearing not later than the 45th day after the
16 date the request is granted.

17 (e) The failure of the board to grant or deny a request for
18 rehearing before the 91st day after the date the request is
19 submitted is a denial of the request.

20 Sec. 36.413. DECISION; WHEN FINAL. (a) A decision by the
21 board on a permit or permit amendment application is final:

22 (1) if a request for rehearing is not filed on time, on
23 the expiration of the period for filing a request for rehearing; or

24 (2) if a request for rehearing is filed on time, on the
25 date:

26 (A) the board denies the request for rehearing;

27 or

1 (B) the board renders a written decision after
2 rehearing.

3 (b) Except as provided by Subsection (c), an applicant or a
4 party to a contested hearing may file a suit against the district
5 under Section 36.251 to appeal a decision on a permit or permit
6 amendment application not later than the 60th day after the date on
7 which the decision becomes final.

8 (c) An applicant or a party to a contested hearing may not
9 file suit against the district under Section 36.251 if a request for
10 rehearing was not filed on time.

11 Sec. 36.414. CONSOLIDATED HEARING ON APPLICATIONS. (a)
12 Except as provided by Subsection (b), a district shall process
13 applications from a single applicant under consolidated notice and
14 hearing procedures on written request by the applicant if the
15 district requires a separate permit or permit amendment application
16 for:

17 (1) drilling, equipping, operating, or completing a
18 well or substantially altering the size of a well or well pump under
19 Section 36.113;

20 (2) the spacing of water wells or the production of
21 groundwater under Section 36.116; or

22 (3) transferring groundwater out of a district under
23 Section 36.122.

24 (b) A district is not required to use consolidated notice
25 and hearing procedures to process separate permit or permit
26 amendment applications from a single applicant if the board cannot
27 adequately evaluate one application until it has acted on another

1 application.

2 Sec. 36.415. RULES; ADDITIONAL PROCEDURES. (a) A district
3 by rule shall adopt procedural rules to implement this subchapter
4 and may adopt notice and hearing procedures in addition to those
5 provided by this subchapter.

6 (b) In adopting the rules, a district shall:

7 (1) define under what circumstances an application is
8 considered contested; and

9 (2) limit participation in a hearing on a contested
10 application to persons who have a personal justiciable interest
11 related to a legal right, duty, privilege, power, or economic
12 interest that is within a district's regulatory authority and
13 affected by a permit or permit amendment application, not including
14 persons who have an interest common to members of the public.

15 Sec. 36.416. HEARINGS CONDUCTED BY STATE OFFICE OF
16 ADMINISTRATIVE HEARINGS. If a district contracts with the State
17 Office of Administrative Hearings to conduct a hearing, the hearing
18 shall be conducted as provided by Subchapters C, D, and F, Chapter
19 2001, Government Code.

20 Sec. 36.417. RULES; ALTERNATIVE DISPUTE RESOLUTION. A
21 district by rule may develop and use alternative dispute resolution
22 procedures in the manner provided for governmental bodies under
23 Chapter 2009, Government Code.

24 Sec. 36.418. APPLICABILITY OF ADMINISTRATIVE PROCEDURE
25 ACT. (a) A district may adopt rules establishing procedures for
26 contested hearings consistent with Subchapters C, D, and F, Chapter
27 2001, Government Code, including the authority to issue a subpoena,

1 require a deposition, or order other discovery.

2 (b) Except as provided by this section and Section 36.416,
3 Chapter 2001, Government Code, does not apply to a hearing under
4 this subchapter.

5 Sec. 36.419. EDWARDS AQUIFER AUTHORITY. (a) Except as
6 provided by Subsection (b), this subchapter does not apply to the
7 Edwards Aquifer Authority.

8 (b) Sections 36.412 and 36.413 apply to the Edwards Aquifer
9 Authority.

10 SECTION 18. Sections 9.017 and 36.001(17), Water Code, are
11 repealed.

12 SECTION 19. The change in law made by this Act applies only
13 to a permit or permit amendment application determined to be
14 administratively complete or a rulemaking hearing for which notice
15 is given by a groundwater conservation district on or after the
16 effective date of this Act. A permit or permit amendment
17 application determined to be administratively complete or a
18 rulemaking hearing for which notice was given by a groundwater
19 conservation district before the effective date of this Act is
20 governed by the law in effect at the time the application was
21 determined to be administratively complete or the notice was given,
22 and the former law is continued in effect for that purpose.

23 SECTION 20. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 1763 was passed by the House on May 12, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1763 on May 24, 2005, by a non-record vote; and that the House adopted H.C.R. No. 236 authorizing certain corrections in H.B. No. 1763 on May 30, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 1763 was passed by the Senate, with amendments, on May 23, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate adopted H.C.R. No. 236 authorizing certain corrections in H.B. No. 1763 on May 30, 2005, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor