

By: Callegari

H.B. No. 3310

A BILL TO BE ENTITLED

AN ACT

relating to groundwater planning and data collection.

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

SECTION 1. Sections 36.1071(a)-(d), Water Code, are amended to read as follows:

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

- (1) providing the most efficient use of groundwater;
- (2) controlling and preventing waste of groundwater;
- (3) controlling and preventing subsidence;
- (4) addressing conjunctive surface water management issues;
- (5) addressing natural resource issues;
- (6) addressing drought conditions; ~~and~~
- (7) addressing conservation, recharge enhancement, rainwater harvesting, or brush control, where appropriate and cost-effective;
- (8) addressing a data collection program that meets standards established by Texas Water Development Board rules; and
- (9) addressing in a quantitative manner the desired future conditions for the groundwater resources within the district established by the joint planning of districts under Section

1 36.108(a-1).

2 (b) A [~~After January 5, 2002, a~~] district management plan,
3 or any amendments to a district management plan, shall be developed
4 by the district using the district's best available data and
5 forwarded to the regional water planning group for consideration in
6 their planning process.

7 (c) The commission and the Texas Water Development Board
8 shall provide technical assistance to a district in the development
9 of the management plan required under Subsection (a), l which may
10 include, if requested by the district, a preliminary review and
11 comment on the plan prior to final approval by the board and
12 information on whether the plan would conflict with an approved
13 regional water plan. If such review and comment by the commission
14 is requested, the commission shall provide comment not later than
15 30 days from the date the request is received.

16 (d) The commission shall provide technical assistance to a
17 district during its initial operational phase. The Texas Water
18 Development Board shall train districts on basic data collection
19 methodology and provide technical assistance to districts as
20 provided by Section 16.0122.

21 SECTION 2. Section 36.1072, Water Code, is amended by
22 amending Subsections (b), (c), (e), and (g) and adding Subsections
23 (b-1)-(b-4) to read as follows:

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

1 requirements specified by Subsections (b-1), (b-2), (b-3), and
2 (b-4).

3 (b-1) The [if the plan is administratively complete. A]
4 management plan must contain [is administratively complete when it
5 contains] the information required to be submitted under Section
6 36.1071. The executive administrator may determine whether [that]
7 conditions justify waiver of the requirements under Section
8 36.1071(e)(4).

9 (b-2) The management plan's required data collection
10 program must meet standards for the amount and method of data
11 collection established by rules adopted by the Texas Water
12 Development Board.

13 (b-3) The management plan must assess groundwater
14 availability in a manner acceptable to the executive administrator,
15 considering the management goals of the district and the goals
16 established under the joint planning process conducted under
17 Section 36.108.

18 (b-4) The plan must be consistent with achieving the desired
19 future condition of the groundwater resources in the management
20 area as determined by the joint planning of the districts under
21 Section 36.108(a-1).

22 (c) Once the executive administrator has certified a
23 [determination that a] management plan [is administratively
24 complete has been made]:

25 (1) the executive administrator may not revoke but may
26 suspend the certification as provided by Subsection (g) or Section
27 16.053 [determination that a management plan is administratively

1 ~~complete~~]; and

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

6 ~~[(3)]~~ a request for additional information does not
7 render the management plan noncertified ~~[incomplete]~~.

8 (e) The board may review the plan annually and must review
9 and readopt the plan with or without revisions at least once every
10 five years. The district shall provide the readopted plan to the
11 executive administrator not later than the 60th day after the date
12 on which the plan was readopted.

13 (g) In this subsection, "development board" means the Texas
14 Water Development Board. A person with a legally defined interest
15 in groundwater in a district or the regional water planning group
16 may file a petition with the development board stating that a
17 conflict requiring resolution may exist between the district's
18 certified ~~[groundwater conservation district]~~ management plan
19 developed under Section 36.1071 and the state water plan. If a
20 conflict exists, the development board shall facilitate
21 coordination between the involved person or regional water planning
22 group and the district to resolve the conflict. If conflict
23 remains, the development board shall resolve the conflict. The
24 development board action under this provision may be consolidated,
25 at the option of the development board, with related action under
26 Section 16.053(p). If the development board determines that
27 resolution of the conflict requires a revision of the certified

1 [~~groundwater conservation district~~] management plan, the
2 development board shall suspend the certification of the plan and
3 provide information to the district. The district shall prepare
4 any revisions to the plan specified by the development board and
5 shall hold, after notice, at least one public hearing at some
6 central location within the district. The district shall consider
7 all public and development board comments, prepare, revise, and
8 adopt its plan, and submit the revised plan to the development board
9 for certification. On the request of the district or the regional
10 water planning group, the development board shall include
11 discussion of the conflict and its resolution in the state water
12 plan that the development board provides to the governor, the
13 lieutenant governor, and the speaker of the house of
14 representatives under Section 16.051(e).

15 SECTION 3. Section 36.108, Water Code, is amended by adding
16 Subsection (a-1) and amending Subsection (d) to read as follows:

17 (a-1) All districts in the management area shall meet to
18 jointly determine:

19 (1) in a quantitative manner, the desired future
20 conditions of the groundwater resources in the management area; and

21 (2) groundwater availability for the management area,
22 using groundwater availability models developed by the executive
23 administrator or other data approved by the executive
24 administrator.

25 (d) A district in the management area may file with good
26 cause a petition with the commission requesting an inquiry if:

27 (1) districts in the management area have not

1 participated in the process established by Subsection (a-1); or

2 (2) the petitioner district adopted a resolution
3 calling for joint planning and the other district or districts
4 refused to join in the planning process or the process failed to
5 result in adequate planning, and the petition provides evidence
6 that:

7 (A) [~~(1)~~] another district in the management
8 area has failed to adopt rules;

9 (B) [~~(2)~~] the groundwater in the management area
10 is not adequately protected by the rules adopted by another
11 district; or

12 (C) [~~(3)~~] the groundwater in the management area
13 is not adequately protected due to the failure of another district
14 to enforce substantial compliance with its rules.

15 SECTION 4. Section 36.301, Water Code, is amended to read as
16 follows:

17 Sec. 36.301. FAILURE TO SUBMIT A MANAGEMENT PLAN. If a
18 board fails to submit a management plan or readopted management
19 plan to receive certification of its management plan under Section
20 36.1072 or fails to submit or receive certification of an amendment
21 to the management plan under Section 36.1073, the commission shall
22 take appropriate action under Section 36.303.

23 SECTION 5. Section 36.3011(b), Water Code, is amended to
24 read as follows:

25 (b) Not later than the 45th day after receiving the review
26 panel's report under Section 36.108, the executive director or the
27 commission shall take action to implement any or all of the panel's

1 recommendations. The commission may take any action it considers
2 necessary in accordance with Section 36.303 if [~~if~~] the commission
3 finds that:

4 (1) a district in the joint planning area has not
5 participated in establishing an assessment of groundwater
6 availability for the management area or the desired future
7 condition for the groundwater resources of the management area;

8 (2) a district in the joint planning area has failed to
9 adopt rules;

10 (3) [~~7~~] the groundwater in the management area is not
11 adequately protected by the rules adopted by a [~~the~~] district; [~~7~~]
12 or

13 (4) the groundwater in the management area is not
14 adequately protected because of a [~~the~~] district's failure to
15 enforce substantial compliance with its rules [~~, the commission may~~
16 ~~take any action it considers necessary in accordance with Section~~
17 ~~36.303]~~.

18 SECTION 6. Section 36.303(a), Water Code, is amended to
19 read as follows:

20 (a) If Section 36.108, 36.301, 36.3011, or 36.302(f)
21 applies, the commission, after notice and hearing in accordance
22 with Chapter 2001, Government Code, shall take action the
23 commission considers appropriate, including:

24 (1) issuing an order requiring the district to take
25 certain actions or to refrain from taking certain actions;

26 (2) dissolving the board in accordance with Sections
27 36.305 and 36.307 and calling an election for the purpose of

1 electing a new board;

2 (3) requesting the attorney general to bring suit for
3 the appointment of a receiver to collect the assets and carry on the
4 business of the groundwater conservation district; or

5 (4) dissolving the district in accordance with
6 Sections 36.304, 36.305, and 36.308.

7 SECTION 7. Subchapter B, Chapter 16, Water Code, is amended
8 by adding Section 16.0122 to read as follows:

9 Sec. 16.0122. TECHNICAL ASSISTANCE FOR GROUNDWATER
10 MANAGEMENT AREAS. For each groundwater management area established
11 under Sections 35.007 and 35.008, the executive administrator shall
12 provide one or more employees of the board to assist the groundwater
13 conservation districts in the management area. The employees shall
14 provide assistance:

15 (1) training district employees or the district board
16 on basic data collection protocols;

17 (2) collecting and interpreting data;

18 (3) providing technical services or expertise;

19 (4) conducting hydrogeologic investigations;

20 (5) providing groundwater availability modeling;

21 (6) developing a district's groundwater management
22 plan;

23 (7) preparing for or conducting a joint planning
24 effort for districts in a groundwater management area or for a
25 district and a regional water planning group established under
26 Section 16.053, including assistance in avoiding and resolving
27 conflicts;

1 (8) estimating groundwater availability based on
2 district policy decisions; and

3 (9) providing education.

4 SECTION 8. Section 212.0101, Local Government Code, is
5 amended by amending Subsection (b) and adding Subsections (c) and
6 (d) to read as follows:

7 (b) The Texas [~~Natural Resource Conservation~~] Commission on
8 Environmental Quality by rule shall establish the appropriate form
9 and content of a certification to be attached to a plat application
10 under this section.

11 (c) The Texas Commission on Environmental Quality, in
12 consultation with the Texas Water Development Board, by rule shall
13 require a municipal authority to transmit to the Texas Water
14 Development Board information received under this section that
15 would be useful in:

16 (1) performing groundwater conservation district
17 activities;

18 (2) conducting regional water planning;

19 (3) maintaining the state's groundwater database; or

20 (4) conducting studies for the state related to
21 groundwater.

22 (d) Under a rule adopted to comply with Subsection (c), the
23 municipal authority shall forward information described by that
24 subsection to the Texas Water Development Board not later than the
25 90th day after the date on which the information was received.

26 SECTION 9. Section 232.0032, Local Government Code, is
27 amended by amending Subsection (b) and adding Subsections (c) and

1 (d) to read as follows:

2 (b) The Texas [~~Natural Resource Conservation~~] Commission on
3 Environmental Quality by rule shall establish the appropriate form
4 and content of a certification to be attached to a plat application
5 under this section.

6 (c) The Texas Commission on Environmental Quality, in
7 consultation with the Texas Water Development Board, by rule shall
8 require the commissioners court of a county to transmit to the Texas
9 Water Development Board information received under this section
10 that would be useful in:

11 (1) performing groundwater conservation district
12 activities;

13 (2) conducting regional water planning;

14 (3) maintaining the state's groundwater database; or

15 (4) conducting studies for the state related to
16 groundwater.

17 (d) Under a rule adopted to comply with Subsection (c), the
18 commissioners court shall forward information described by that
19 subsection to the Texas Water Development Board not later than the
20 90th day after the date on which the information was received.

21 SECTION 10. The Texas Commission on Environmental Quality
22 and the Texas Water Development Board shall adopt any rules,
23 models, and forms necessary for the implementation of the
24 groundwater management area planning functions required by this Act
25 not later than September 1, 2006.

26 SECTION 11. This Act takes effect September 1, 2005.