

By: Armbrister

S.B. No. 3

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the development and management of the water resources
3 of the state, including the creation of a groundwater conservation
4 district; imposing fees and providing penalties.

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

6 ARTICLE 1. ENVIRONMENTAL FLOWS

7 SECTION 1.01. The heading to Section 5.506, Water Code, is
8 amended to read as follows:

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

13 SECTION 1.02. Section 5.506, Water Code, is amended by
14 adding Subsection (a-1) and amending Subsections (b) and (c) to
15 read as follows:

16 (a-1) State water that is set aside by the commission to
17 meet the needs for freshwater inflows to affected bays and
18 estuaries and instream uses under Section 11.1471(a)(2) may be made
19 available temporarily for other essential beneficial uses if the
20 commission finds that an emergency exists that cannot practically
21 be resolved in another way.

22 (b) The commission must give written notice of the proposed
23 action [~~suspension~~] to the Parks and Wildlife Department before the
24 commission suspends a permit condition under Subsection (a) or

1 makes water available temporarily under Subsection (a-1) [~~this~~
2 ~~section~~]. The commission shall give the Parks and Wildlife
3 Department an opportunity to submit comments on the proposed action
4 [~~suspension~~] for a period of 72 hours from receipt of the notice and
5 must consider those comments before issuing an order implementing
6 the proposed action [~~imposing the suspension~~].

7 (c) The commission may suspend a permit condition under
8 Subsection (a) or make water available temporarily under Subsection
9 (a-1) [~~this section~~] without notice except as required by
10 Subsection (b).

11 SECTION 1.03. Subsection (j), Section 5.701, Water Code, is
12 amended to read as follows:

13 (j) The fee for other uses of water not specifically named
14 in this section is \$1 per acre-foot, except that no political
15 subdivision may be required to pay fees to use water for recharge of
16 underground freshwater-bearing sands and aquifers or for abatement
17 of natural pollution. A fee is not required for a water right that
18 is [~~This fee is waived for applications for instream-use water~~
19 ~~rights~~] deposited into the Texas Water Trust.

20 SECTION 1.04. Section 11.002, Water Code, is amended by
21 adding Subdivisions (15), (16), (17), (18), and (19) to read as
22 follows:

23 (15) "Environmental flow analysis" means the
24 application of a scientifically derived process for predicting the
25 response of an ecosystem to changes in instream flows or freshwater
26 inflows.

27 (16) "Environmental flow regime" means a schedule of

1 flow quantities that reflects seasonal and yearly fluctuations that
2 typically would vary geographically, by specific location in a
3 watershed, and that are shown to be adequate to support a sound
4 ecological environment and to maintain the productivity, extent,
5 and persistence of key aquatic habitats in and along the affected
6 water bodies.

7 (17) "Environmental flow standards" means those
8 requirements adopted by the commission under Section 11.1471.

9 (18) "Flows commission" means the Environmental Flows
10 Commission.

11 (19) "Science advisory committee" means the Texas
12 Environmental Flows Science Advisory Committee.

13 SECTION 1.05. Subsection (a), Section 11.023, Water Code,
14 is amended to read as follows:

15 (a) To the extent that state water has not been set aside by
16 the commission under Section 11.1471(a)(2) to meet downstream
17 instream flow needs or freshwater inflow needs, state [~~State~~] water
18 may be appropriated, stored, or diverted for:

19 (1) domestic and municipal uses, including water for
20 sustaining human life and the life of domestic animals;

21 (2) agricultural uses and industrial uses, meaning
22 processes designed to convert materials of a lower order of value
23 into forms having greater usability and commercial value, including
24 the development of power by means other than hydroelectric;

25 (3) mining and recovery of minerals;

26 (4) hydroelectric power;

27 (5) navigation;

- 1 (6) recreation and pleasure;
- 2 (7) public parks; and
- 3 (8) game preserves.

4 SECTION 1.06. Section 11.0235, Water Code, is amended by
5 amending Subsections (c) and (e) and adding Subsections (d-1)
6 through (d-5), and (f) to read as follows:

7 (c) The legislature has expressly required the commission
8 while balancing all other public interests to consider and, to the
9 extent practicable, provide for the freshwater inflows and instream
10 flows necessary to maintain the viability of the state's streams,
11 rivers, and bay and estuary systems in the commission's regular
12 granting of permits for the use of state waters. As an essential
13 part of the state's environmental flows policy, all permit
14 conditions relating to freshwater inflows to affected bays and
15 estuaries and instream flow needs must be subject to temporary
16 suspension if necessary for water to be applied to essential
17 beneficial uses during emergencies.

18 (d-1) The legislature finds that to provide certainty in
19 water management and development and to provide adequate protection
20 of the state's streams, rivers, and bays and estuaries, the state
21 must have a process with specific timelines for prompt action to
22 address environmental flow issues in the state's major basin and
23 bay systems, especially those systems in which unappropriated water
24 is still available.

25 (d-2) The legislature finds that:

26 (1) in those basins in which water is available for
27 appropriation, the commission should establish an environmental

1 set-aside below which water should not be available for
2 appropriation; and

3 (2) in those basins in which the unappropriated water
4 that will be set aside for instream flow and freshwater inflow
5 protection is not sufficient to fully satisfy the environmental
6 flow standards established by the commission, a variety of
7 approaches, both public and private, for filling the gap must be
8 explored and pursued.

9 (d-3) The legislature finds that while the state has
10 pioneered tools to address freshwater inflow needs for bays and
11 estuaries, there are limitations to those tools in light of both
12 scientific and public policy evolution. To fully address bay and
13 estuary environmental flow issues, the foundation of work
14 accomplished by the state should be improved. While the state's
15 instream flow studies program appears to encompass a comprehensive
16 and scientific approach for establishing a process to assess
17 instream flow needs for rivers and streams across the state, more
18 extensive review and examination of the details of the program,
19 which may not be fully developed until the program is under way, are
20 needed to ensure an effective tool for evaluating riverine
21 environmental flow conditions.

22 (d-4) The legislature finds that the management of water to
23 meet instream flow and freshwater inflow needs should be evaluated
24 on a regular basis and adapted to reflect both improvements in
25 science related to environmental flows and future changes in
26 projected human needs for water. In addition, the development of
27 management strategies for addressing environmental flow needs

1 should be an ongoing, adaptive process that considers and addresses
2 local issues.

3 (d-5) The legislature finds that recommendations for state
4 action to protect instream flows and freshwater inflows should be
5 developed through a consensus-based, regional approach involving
6 balanced representation of stakeholders and that such a process
7 should be encouraged throughout the state.

8 (e) The fact that greater pressures and demands are being
9 placed on the water resources of the state makes it of paramount
10 importance to ensure [~~reexamine the process for ensuring~~] that
11 these important priorities are effectively addressed by detailing
12 how environmental flow standards are to be developed using the
13 environmental studies that have been and are to be performed by the
14 state and others and specifying in clear delegations of authority
15 how those environmental flow standards will be integrated into the
16 regional water planning and water permitting process [~~to the~~
17 ~~commission~~].

18 (f) The legislature recognizes that effective
19 implementation of the approach provided by this chapter for
20 protecting instream flows and freshwater inflows will require more
21 effective water rights administration and enforcement systems than
22 are currently available in most areas of the state.

23 SECTION 1.07. The heading to Section 11.0236, Water Code,
24 is amended to read as follows:

25 Sec. 11.0236. [~~STUDY COMMISSION ON WATER FOR~~] ENVIRONMENTAL
26 FLOWS COMMISSION.

27 SECTION 1.08. Section 11.0236, Water Code, is amended by

1 amending Subsections (a), (b), (c), (e) through (j), (n), and (o)
2 and adding Subsection (p) to read as follows:

3 (a) In recognition of the importance that the ecological
4 soundness of our riverine, bay, and estuary systems and riparian
5 lands has on the economy, health, and well-being of the state there
6 is created the [~~Study Commission on Water for~~] Environmental Flows
7 Commission.

8 (b) The flows [~~study~~] commission is composed of nine [~~15~~]
9 members as follows:

10 (1) three [~~two~~] members appointed by the governor;

11 (2) three [~~five~~] members of the senate appointed by
12 the lieutenant governor; and

13 (3) three [~~five~~] members of the house of
14 representatives appointed by the speaker of the house of
15 representatives[~~+~~

16 [~~(4) the presiding officer of the commission or the~~
17 ~~presiding officer's designee;~~

18 [~~(5) the chairman of the board or the chairman's~~
19 ~~designee; and~~

20 [~~(6) the presiding officer of the Parks and Wildlife~~
21 ~~Commission or the presiding officer's designee].~~

22 (c) Of the members appointed under Subsection (b)(1):

23 (1) one member must be a member of the commission;

24 (2) one member must be a member of the board; and

25 (3) one member must be a member of the Parks and
26 Wildlife Commission [~~(b)(2)~~];

27 [~~(1) one member must represent a river authority or~~

1 ~~municipal water supply agency or authority,~~

2 ~~[(2) one member must represent an entity that is~~
3 ~~distinguished by its efforts in resource protection, and~~

4 ~~[(3) three members must be members of the senate].~~

5 (e) Each ~~appointed~~ member of the flows ~~[study]~~ commission
6 serves at the will of the person who appointed the member.

7 (f) The appointed senator with the most seniority and the
8 appointed house member with the most seniority serve together as
9 co-presiding officers of the flows ~~[study]~~ commission.

10 (g) A member of the flows ~~[study]~~ commission is not entitled
11 to receive compensation for service on the flows ~~[study]~~ commission
12 but is entitled to reimbursement of the travel expenses incurred by
13 the member while conducting the business of the flows ~~[study]~~
14 commission, as provided by the General Appropriations Act.

15 (h) The flows ~~[study]~~ commission may accept gifts and grants
16 from any source to be used to carry out a function of the flows
17 ~~[study]~~ commission.

18 (i) The commission shall provide staff support for the flows
19 ~~[study]~~ commission.

20 (j) The flows ~~[study]~~ commission shall conduct public
21 hearings and study public policy implications for balancing the
22 demands on the water resources of the state resulting from a growing
23 population with the requirements of the riverine, bay, and estuary
24 systems including granting permits for instream flows dedicated to
25 environmental needs or bay and estuary inflows, use of the Texas
26 Water Trust, and any other issues that the flows ~~[study]~~ commission
27 determines have importance and relevance to the protection of

1 environmental flows. In evaluating the options for providing
2 adequate environmental flows, the flows [~~study~~] commission shall
3 take notice of the strong public policy imperative that exists in
4 this state recognizing that environmental flows are important to
5 the biological health of our public and private lands, streams and
6 rivers [~~parks, game preserves~~], and bay and estuary systems and are
7 high priorities in the water management [~~permitting~~] process. The
8 flows [~~study~~] commission shall specifically address:

9 (1) ways that the ecological soundness of those
10 [these] systems will be ensured in the water rights administration
11 and enforcement and water allocation processes; and

12 (2) appropriate methods to encourage persons
13 voluntarily to convert reasonable amounts of existing water rights
14 to use for environmental flow protection temporarily or permanently
15 [process].

16 (n) The flows [~~study~~] commission may [~~shall~~] adopt rules,
17 procedures, and policies as needed to administer this section, to
18 implement its responsibilities, and to exercise its authority under
19 Sections 11.02361 and 11.02362.

20 (o) Chapter 2110, Government Code, does not apply to the
21 size, composition, or duration of the flows commission.

22 (p) Not later than December 1, 2006, and every two years
23 thereafter, the flows commission shall issue and promptly deliver
24 to the governor, lieutenant governor, and speaker of the house of
25 representatives copies of a report summarizing:

26 (1) any hearings conducted by the flows commission;

27 (2) any studies conducted by the flows commission;

1 (3) any legislation proposed by the flows commission;

2 (4) progress made in implementing Sections 11.02361
3 and 11.02362; and

4 (5) any other findings and recommendations of the
5 flows commission [~~The study commission is abolished and this~~
6 ~~section expires September 1, 2005~~].

7 SECTION 1.09. Subchapter B, Chapter 11, Water Code, is
8 amended by adding Sections 11.02361 and 11.02362 to read as
9 follows:

10 Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE ADVISORY
11 COMMITTEE. (a) The Texas Environmental Flows Science Advisory
12 Committee consists of at least five but not more than nine members
13 appointed by the flows commission.

14 (b) The flows commission shall appoint to the science
15 advisory committee persons who will provide an objective
16 perspective and diverse technical expertise, including expertise
17 in hydrology, hydraulics, water resources, aquatic and terrestrial
18 biology, geomorphology, geology, water quality, computer modeling,
19 and other technical areas pertinent to the evaluation of
20 environmental flows.

21 (c) Members of the science advisory committee serve
22 five-year terms expiring March 1. A vacancy on the science advisory
23 committee is filled by appointment by the co-presiding officers of
24 the flows commission for the unexpired term.

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

27 (e) The science advisory committee shall:

1 (1) serve as an objective scientific body to advise
2 and make recommendations to the flows commission on issues relating
3 to the science of environmental flow protection; and

4 (2) develop recommendations to help provide overall
5 direction, coordination, and consistency relating to:

6 (A) environmental flow methodologies for bay and
7 estuary studies and instream flow studies;

8 (B) environmental flow programs at the
9 commission, the Parks and Wildlife Department, and the board; and

10 (C) the work of the basin and bay expert science
11 teams described in Section 11.02362.

12 (f) To assist the flows commission to assess the extent to
13 which the recommendations of the science advisory committee are
14 considered and implemented, the commission, the Parks and Wildlife
15 Department, and the board shall provide written reports to the
16 flows commission, at intervals determined by the flows commission,
17 that describe:

18 (1) the actions taken by each agency in response to
19 each recommendation; and

20 (2) for each recommendation not implemented, the
21 reason it was not implemented.

22 Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME
23 RECOMMENDATIONS. (a) For the purposes of this section, the flows
24 commission, not later than November 1, 2005, shall define the
25 geographical extent of each river basin and bay system in this state
26 for the sole purpose of developing environmental flow regime
27 recommendations under this section and adoption of environmental

1 flow standards under Section 11.1471.

2 (b) The flows commission shall give priority in descending
3 order to the following river basin and bay systems of the state for
4 the purpose of developing environmental flow regime
5 recommendations and adopting environmental flow standards:

6 (1) the river basin and bay system consisting of the
7 Trinity and San Jacinto Rivers and Galveston Bay and the river basin
8 and bay system consisting of the Sabine and Neches Rivers and Sabine
9 Lake Bay;

10 (2) the river basin and bay system consisting of the
11 Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the
12 river basin and bay system consisting of the Guadalupe, San
13 Antonio, and Aransas Rivers and Copano, Aransas, and San Antonio
14 Bays; and

15 (3) the river basin and bay system consisting of the
16 Nueces River and Corpus Christi and Baffin Bays, the river basin and
17 bay system consisting of the Rio Grande, the Rio Grande estuary, and
18 the Lower Laguna Madre, and the Brazos River and its associated bay
19 and estuary system.

20 (c) For the river basin and bay systems listed in Subsection
21 (b)(1):

22 (1) the flows commission shall appoint the basin and
23 bay area stakeholders committee not later than November 1, 2005;

24 (2) the basin and bay area stakeholders committee
25 shall establish a basin and bay expert science team not later than
26 March 1, 2006;

27 (3) the basin and bay expert science team shall

1 finalize environmental flow regime recommendations and submit them
2 to the basin and bay area stakeholders committee, the flows
3 commission, and the commission not later than March 1, 2007;

4 (4) the basin and bay area stakeholders committee
5 shall submit to the commission its comments on and recommendations
6 regarding the basin and bay expert science team's recommended
7 environmental flow regime not later than September 1, 2007; and

8 (5) the commission shall adopt the environmental flow
9 standards as provided by Section 11.1471 not later than September
10 1, 2008.

11 (d) The flows commission shall appoint the basin and bay
12 area stakeholders committees for the river basin and bay systems
13 listed in Subsection (b)(2) not later than September 1, 2006, and
14 shall appoint the basin and bay area stakeholders committees for
15 the river basin and bay systems listed in Subsection (b)(3) not
16 later than September 1, 2007. The flows commission shall establish
17 a schedule for the performance of the tasks listed in Subsections
18 (c)(2)-(5) with regard to the river basin and bay systems listed in
19 Subsections (b)(2) and (3) that will result in the adoption of
20 environmental flow standards for that river basin and bay system by
21 the commission as soon as is reasonably possible. Each basin and
22 bay area stakeholders committee and basin and bay expert science
23 team for a river basin and bay system listed in Subsection (b)(2) or
24 (3) shall make recommendations to the flows commission with regard
25 to the schedule applicable to that river basin and bay system. The
26 flows commission shall consider the recommendations of the basin
27 and bay area stakeholders committee and basin and bay expert

1 science team as well as coordinate with, and give appropriate
2 consideration to the recommendations of, the commission, the Parks
3 and Wildlife Department, and the board in establishing the
4 schedule.

5 (e) For a river basin and bay system or a river basin that
6 does not have an associated bay system in this state not listed in
7 Subsection (b), the flows commission shall establish a schedule for
8 the development of environmental flow regime recommendations and
9 the adoption of environmental flow standards. The flows commission
10 shall develop the schedule in consultation with the commission, the
11 Parks and Wildlife Department, the board, and the pertinent basin
12 and bay area stakeholders committee and basin and bay expert
13 science team. The flows commission may, on its own initiative or on
14 request, modify a schedule established under this subsection to be
15 more responsive to particular circumstances, local desires,
16 changing conditions, or time-sensitive conflicts. This subsection
17 does not prohibit, in a river basin and bay system for which the
18 flows commission has not yet established a schedule for the
19 development of environmental flow regime recommendations and the
20 adoption of environmental flow standards, an effort to develop
21 information on environmental flow needs and ways in which those
22 needs can be met by a voluntary consensus-building process.

23 (f) The flows commission shall appoint a basin and bay area
24 stakeholders committee for each river basin and bay system in this
25 state for which a schedule for the development of environmental
26 flow regime recommendations and the adoption of environmental flow
27 standards is specified by or established under Subsection (c), (d),

1 or (e). Chapter 2110, Government Code, does not apply to the size,
2 composition, or duration of a basin and bay area stakeholders
3 committee. Each committee must consist of at least 17 members. The
4 members must represent appropriate stakeholders, including
5 representatives of:

- 6 (1) agricultural water users;
- 7 (2) recreational water users, including coastal
8 recreational anglers and businesses supporting water recreation;
- 9 (3) municipalities;
- 10 (4) soil and water conservation districts;
- 11 (5) industrial water users;
- 12 (6) commercial fishermen;
- 13 (7) public interest groups;
- 14 (8) regional water planning groups;
- 15 (9) groundwater conservation districts;
- 16 (10) river authorities and other conservation and
17 reclamation districts with jurisdiction over surface water; and
- 18 (11) environmental interests.

19 (g) Members of a basin and bay area stakeholders committee
20 serve five-year terms expiring March 1. If a vacancy occurs on a
21 committee, the remaining members of the committee by majority vote
22 shall appoint a member to serve the remainder of the unexpired term.

23 (h) Meetings of a basin and bay area stakeholders committee
24 must be open to the public.

25 (i) Each basin and bay area stakeholders committee shall
26 establish a basin and bay expert science team for the river basin
27 and bay system for which the committee is established. The basin

1 and bay expert science team must be established not later than six
2 months after the date the basin and bay area stakeholders committee
3 is established. Chapter 2110, Government Code, does not apply to
4 the size, composition, or duration of a basin and bay expert science
5 team. Each basin and bay expert science team must be composed of
6 technical experts with special expertise regarding the river basin
7 and bay system or regarding the development of environmental flow
8 regimes. A person may serve as a member of more than one basin and
9 bay expert science team at the same time.

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

15 (k) The science advisory committee shall appoint one of its
16 members to serve as a liaison to each basin and bay expert science
17 team to facilitate coordination and consistency in environmental
18 flow activities throughout the state. The commission, the Parks
19 and Wildlife Department, and the board shall provide technical
20 assistance to each basin and bay expert science team, including
21 information about the studies conducted under Sections 16.058 and
22 16.059, and may serve as nonvoting members of the basin and bay
23 expert science team to facilitate the development of environmental
24 flow regime recommendations.

25 (l) Where reasonably practicable, meetings of a basin and
26 bay expert science team must be open to the public.

27 (m) Each basin and bay expert science team shall develop

1 environmental flow analyses and a recommended environmental flow
2 regime for the river basin and bay system for which the team is
3 established through a collaborative process designed to achieve a
4 consensus. In developing the analyses and recommendations, the
5 science team must consider all reasonably available science,
6 without regard to the need for the water for other uses, and the
7 science team's recommendations must be based solely on the best
8 science available.

9 (n) Each basin and bay expert science team shall submit its
10 environmental flow analyses and environmental flow regime
11 recommendations to the pertinent basin and bay area stakeholders
12 committee, the flows commission, and the commission in accordance
13 with the applicable schedule specified by or established under
14 Subsection (c), (d), or (e). The basin and bay area stakeholders
15 committee and the flows commission may not change the environmental
16 flow analyses or environmental flow regime recommendations of the
17 basin and bay expert science team.

18 (o) Each basin and bay area stakeholders committee shall
19 review the environmental flow analyses and environmental flow
20 regime recommendations submitted by the committee's basin and bay
21 expert science team and shall consider them in conjunction with
22 other factors, including the present and future needs for water for
23 other uses related to water supply planning in the pertinent river
24 basin and bay system. The basin and bay area stakeholders committee
25 shall develop recommendations regarding environmental flow
26 standards and strategies to meet the environmental flow standards
27 and submit those recommendations to the commission and to the flows

1 commission in accordance with the applicable schedule specified by
2 or established under Subsection (c), (d), or (e). In developing its
3 recommendations, the basin and bay area stakeholders committee
4 shall operate on a consensus basis to the maximum extent possible.

5 (p) In recognition of the importance of adaptive
6 management, after submitting its recommendations regarding
7 environmental flow standards and strategies to meet the
8 environmental flow standards to the commission, each basin and bay
9 area stakeholders committee, with the assistance of the pertinent
10 basin and bay expert science team, shall prepare and submit for
11 approval by the flows commission a work plan. The work plan must:

12 (1) establish a periodic review of the basin and bay
13 environmental flow analyses and environmental flow regime
14 recommendations, environmental flow standards, and strategies, to
15 occur at least once every 10 years;

16 (2) prescribe specific monitoring, studies, and
17 activities; and

18 (3) establish a schedule for continuing the validation
19 or refinement of the basin and bay environmental flow analyses and
20 environmental flow regime recommendations, the environmental flow
21 standards adopted by the commission, and the strategies to achieve
22 those standards.

23 (q) In accordance with the applicable schedule specified by
24 or established under Subsection (c), (d), or (e), the flows
25 commission, with input from the science advisory committee, shall
26 review the environmental flow analyses and environmental flow
27 regime recommendations submitted by each basin and bay expert

1 science team. If appropriate, the flows commission shall submit
2 comments on the analyses and recommendations to the commission for
3 use by the commission in adopting rules under Section 11.1471.
4 Comments must be submitted not later than six months after the date
5 of receipt of the analyses and recommendations.

6 (r) In the event the commission, by permit or order, has
7 established an estuary advisory council, that council may continue
8 in full force and effect.

9 SECTION 1.10. Subsections (a) and (b), Section 11.0237,
10 Water Code, are amended to read as follows:

11 (a) The commission may not issue a new permit for instream
12 flows dedicated to environmental needs or bay and estuary inflows.
13 The [~~This section does not prohibit the~~] commission may approve
14 [~~from issuing~~] an application to amend [~~amendment to~~] an existing
15 permit or certificate of adjudication to change the use to or add a
16 use for instream flows dedicated to environmental needs or bay and
17 estuary inflows.

18 (b) This section does not alter the commission's
19 obligations under Section 11.042(b), 11.042(c), 11.046(b),
20 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491,
21 11.150, 11.152, 16.058, or 16.059.

22 SECTION 1.11. Subsection (b), Section 11.082, Water Code,
23 is amended to read as follows:

24 (b) The state may recover the penalties prescribed in
25 Subsection (a) [~~of this section~~] by suit brought for that purpose in
26 a court of competent jurisdiction. The state may seek those
27 penalties regardless of whether a watermaster has been appointed

1 for the water division, river basin, or segment of a river basin
2 where the unlawful use is alleged to have occurred.

3 SECTION 1.12. Section 11.0841, Water Code, is amended by
4 adding Subsection (c) to read as follows:

5 (c) For purposes of this section, the Parks and Wildlife
6 Department has:

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

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

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

17 SECTION 1.13. Subsection (a), Section 11.0842, Water Code,
18 is amended to read as follows:

19 (a) If a person violates this chapter, a rule or order
20 adopted under this chapter or Section 16.236 [~~of this code~~], or a
21 permit, certified filing, or certificate of adjudication issued
22 under this chapter, the commission may assess an administrative
23 penalty against that person as provided by this section. The
24 commission may assess an administrative penalty for a violation
25 relating to a water division or a river basin or segment of a river
26 basin regardless of whether a watermaster has been appointed for
27 the water division or river basin or segment of the river basin.

1 SECTION 1.14. Subsection (a), Section 11.0843, Water Code,
2 is amended to read as follows:

3 (a) Upon witnessing a violation of this chapter or a rule or
4 order or a water right issued under this chapter, the executive
5 director or a person designated by the executive director,
6 including a watermaster or the watermaster's deputy, [~~as defined by~~
7 ~~commission rule,~~] may issue the alleged violator a field citation
8 alleging that a violation has occurred and providing the alleged
9 violator the option of either:

10 (1) without admitting to or denying the alleged
11 violation, paying an administrative penalty in accordance with the
12 predetermined penalty amount established under Subsection (b) [~~of~~
13 ~~this section~~] and taking remedial action as provided in the
14 citation; or

15 (2) requesting a hearing on the alleged violation in
16 accordance with Section 11.0842 [~~of this code~~].

17 SECTION 1.15. Subsection (b), Section 11.134, Water Code,
18 is amended to read as follows:

19 (b) The commission shall grant the application only if:

20 (1) the application conforms to the requirements
21 prescribed by this chapter and is accompanied by the prescribed
22 fee;

23 (2) unappropriated water is available in the source of
24 supply;

25 (3) the proposed appropriation:

26 (A) is intended for a beneficial use;

27 (B) does not impair existing water rights or

1 vested riparian rights;

2 (C) is not detrimental to the public welfare;

3 (D) considers any applicable environmental flow
4 standards established under Section 11.1471 and, if applicable, the
5 assessments performed under Sections 11.147(d) and (e) and Sections
6 11.150, 11.151, and 11.152; and

7 (E) addresses a water supply need in a manner
8 that is consistent with the state water plan and the relevant
9 approved regional water plan for any area in which the proposed
10 appropriation is located, unless the commission determines that
11 conditions warrant waiver of this requirement; and

12 (4) the applicant has provided evidence that
13 reasonable diligence will be used to avoid waste and achieve water
14 conservation as defined by [~~Subdivision (8)(B),~~] Section
15 11.002(8)(B) [~~11.002~~].

16 SECTION 1.16. Section 11.147, Water Code, is amended by
17 amending Subsections (b), (d), and (e) and adding Subsections (e-1)
18 and (e-2) to read as follows:

19 (b) In its consideration of an application for a permit to
20 store, take, or divert water, the commission shall assess the
21 effects, if any, of the issuance of the permit on the bays and
22 estuaries of Texas. For permits issued within an area that is 200
23 river miles of the coast, to commence from the mouth of the river
24 thence inland, the commission shall include in the permit any
25 conditions considered necessary to maintain freshwater inflows to
26 any affected bay and estuary system, to the extent practicable when
27 considering all public interests and the studies mandated by

1 Section 16.058 as evaluated under Section 11.1491[~~, those~~
2 ~~conditions considered necessary to maintain beneficial inflows to~~
3 ~~any affected bay and estuary system~~].

4 (d) In its consideration of an application to store, take,
5 or divert water, the commission shall include in the permit, to the
6 extent practicable when considering all public interests, those
7 conditions considered by the commission necessary to maintain
8 existing instream uses and water quality of the stream or river to
9 which the application applies. In determining what conditions to
10 include in the permit under this subsection, the commission shall
11 consider among other factors:

12 (1) the studies mandated by Section 16.059; and

13 (2) any water quality assessment performed under
14 Section 11.150.

15 (e) The commission shall include in the permit, to the
16 extent practicable when considering all public interests, those
17 conditions considered by the commission necessary to maintain fish
18 and wildlife habitats. In determining what conditions to include
19 in the permit under this subsection, the commission shall consider
20 any assessment performed under Section 11.152.

21 (e-1) Any permit for a new appropriation of water or an
22 amendment to an existing water right that increases the amount of
23 water authorized to be stored, taken, or diverted must include a
24 provision allowing the commission to adjust the conditions included
25 in the permit or amended water right to provide for protection of
26 instream flows or freshwater inflows. With respect to an amended
27 water right, the provision may not allow the commission to adjust a

1 condition of the amendment other than a condition that applies only
2 to the increase in the amount of water to be stored, taken, or
3 diverted authorized by the amendment. This subsection does not
4 affect an appropriation of or an authorization to store, take, or
5 divert water under a permit or amendment to a water right issued
6 before September 1, 2005. The commission shall adjust the
7 conditions if the commission determines, through an expedited
8 public comment process, that such an adjustment is appropriate to
9 achieve compliance with applicable environmental flow standards
10 adopted under Section 11.1471. The adjustment:

11 (1) in combination with any previous adjustments made
12 under this subsection may not increase the amount of the
13 pass-through or release requirement for the protection of instream
14 flows or freshwater inflows by more than 12.5 percent of the
15 annualized total of that requirement contained in the permit as
16 issued or of that requirement contained in the amended water right
17 and applicable only to the increase in the amount of water
18 authorized to be stored, taken, or diverted under the amended water
19 right;

20 (2) must be based on appropriate consideration of the
21 priority dates and diversion locations of any other water rights
22 granted in the same river basin that are subject to adjustment under
23 this subsection; and

24 (3) must be based on appropriate consideration of any
25 voluntary contributions to the Texas Water Trust that contribute
26 toward meeting the environmental flow standards. Any water right
27 holder making such donation shall be entitled to appropriate credit

1 of such benefits against adjustments of his water right pursuant to
2 Subdivision (1).

3 (e-2) Notwithstanding Subsections (b)-(e), for the purpose
4 of determining the environmental flow conditions necessary to
5 maintain freshwater inflows to an affected bay and estuary system,
6 existing instream uses and water quality of a stream or river, or
7 fish and aquatic wildlife habitats, the commission shall apply any
8 applicable environmental flow standard, including any
9 environmental flow set-aside, adopted under Section 11.1471
10 instead of considering the factors specified by those subsections.

11 SECTION 1.17. Subchapter D, Chapter 11, Water Code, is
12 amended by adding Section 11.1471 to read as follows:

13 Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES.

14 (a) The commission by rule shall:

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

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

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

27 (b) In adopting environmental flow standards for a river

1 basin and bay system under Subsection (a)(1), the commission shall
2 consider:

3 (1) the definition of the geographical extent of the
4 river basin and bay system adopted by the flows commission under
5 Section 11.02362(a);

6 (2) the schedule for the adoption of environmental
7 flow standards for the river basin and bay system established by the
8 flows commission under Section 11.02362(d) or (e), if applicable;

9 (3) the environmental flow analyses and the
10 recommended environmental flow regime developed by the applicable
11 basin and bay expert science team under Section 11.02362(m);

12 (4) the recommendations regarding environmental flow
13 standards and strategies to meet the flow standards developed by
14 the applicable basin and bay area stakeholders committee under
15 Section 11.02362(o);

16 (5) the specific characteristics of the river basin
17 and bay system;

18 (6) economic factors;

19 (7) the human and other competing water needs in the
20 river basin and bay system;

21 (8) all reasonably available scientific information,
22 including any scientific information provided by the science
23 advisory committee; and

24 (9) any other appropriate information.

25 (c) Environmental flow standards adopted under Subsection
26 (a)(1) must consist of a schedule of flow quantities, reflecting
27 seasonal and yearly fluctuations that may vary geographically by

1 specific location in a river basin and bay system.

2 (d) As provided by Section 11.023, the commission may not
3 issue a permit for a new appropriation or an amendment to an
4 existing water right that increases the amount of water authorized
5 to be stored, taken, or diverted if the issuance of the permit or
6 amendment would impair an environmental flow set-aside established
7 under Subsection (a)(2). A permit for a new appropriation or an
8 amendment to an existing water right that increases the amount of
9 water authorized to be stored, taken, or diverted that is issued
10 after the adoption of an applicable environmental flow set-aside
11 must contain appropriate conditions to ensure protection of the
12 environmental flow set-aside.

13 (e) An environmental flow set-aside established under
14 Subsection (a)(2) must be assigned a priority date corresponding to
15 the date the commission receives environmental flow regime
16 recommendations from the applicable basin and bay expert science
17 team and be included in the appropriate water availability models
18 in connection with an application for a permit for a new
19 appropriation or for an amendment to an existing water right that
20 increases the amount of water authorized to be stored, taken, or
21 diverted.

22 (f) An environmental flow standard or environmental flow
23 set-aside adopted under Subsection (a) may be altered by the
24 commission in a rulemaking process undertaken in accordance with a
25 schedule established by the commission. The commission's schedule
26 may not provide for the rulemaking process to occur more frequently
27 than once every 10 years unless the applicable work plan approved by

1 the flows commission under Section 11.02362(p) provides for a
2 periodic review under that section to occur more frequently than
3 once every 10 years. In that event, the commission may provide for
4 the rulemaking process to be undertaken in conjunction with the
5 periodic review if the commission determines that schedule to be
6 appropriate.

7 SECTION 1.18. The heading to Section 11.148, Water Code, is
8 amended to read as follows:

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

12 SECTION 1.19. Section 11.148, Water Code, is amended by
13 adding Subsection (a-1) and amending Subsections (b) and (c) to
14 read as follows:

15 (a-1) State water that is set aside by the commission to
16 meet the needs for freshwater inflows to affected bays and
17 estuaries and instream uses under Section 11.1471(a)(2) may be made
18 available temporarily for other essential beneficial uses if the
19 commission finds that an emergency exists that cannot practically
20 be resolved in another way.

21 (b) Before the commission suspends a permit condition under
22 Subsection (a) or makes water available temporarily under
23 Subsection (a-1) [~~of this section~~], it must give written notice to
24 the Parks and Wildlife Department of the proposed action
25 [~~suspension~~]. The commission shall give the Parks and Wildlife
26 Department an opportunity to submit comments on the proposed action
27 [~~suspension~~] within 72 hours from such time and the commission

1 shall consider those comments before issuing its order implementing
2 the proposed action [~~imposing the suspension~~].

3 (c) The commission may suspend the permit condition under
4 Subsection (a) or make water available temporarily under Subsection
5 (a-1) without notice to any other interested party other than the
6 Parks and Wildlife Department as provided by Subsection (b) [~~of~~
7 ~~this section~~]. However, all affected persons shall be notified
8 immediately by publication, and a hearing to determine whether the
9 suspension should be continued shall be held within 15 days of the
10 date on which the order to suspend is issued.

11 SECTION 1.20. Subsection (a), Section 11.1491, Water Code,
12 is amended to read as follows:

13 (a) The Parks and Wildlife Department and the commission
14 shall have joint responsibility to review the studies prepared
15 under Section 16.058 [~~of this code~~], to determine inflow conditions
16 necessary for the bays and estuaries, and to provide information
17 necessary for water resources management. Each agency shall
18 designate an employee to share equally in the oversight of the
19 program. Other responsibilities shall be divided between the Parks
20 and Wildlife Department and the commission to maximize present
21 in-house capabilities of personnel and to minimize costs to the
22 state. Each agency shall have reasonable access to all information
23 produced by the other agency. Publication of reports completed
24 under this section shall be submitted for comment to [~~both~~]
25 commission, [and] the Parks and Wildlife Department, the flows
26 commission, the science advisory committee, and any applicable
27 basin and bay area stakeholders committee and basin and bay expert

1 science team.

2 SECTION 1.21. Subsection (g), Section 11.329, Water Code,
3 is amended to read as follows:

4 (g) The commission may not assess costs under this section
5 against a holder of a non-priority hydroelectric right that owns or
6 operates privately owned facilities that collectively have a
7 capacity of less than two megawatts or against a holder of a water
8 right placed in the Texas Water Trust for a term of at least 20
9 years. [~~This subsection is not intended to affect in any way the~~
10 ~~fees assessed on a water right holder by the commission under~~
11 ~~Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular~~
12 ~~Session, 1993. For purposes of Section 1.29(d), Chapter 626, Acts~~
13 ~~of the 73rd Legislature, Regular Session, 1993, a holder of a~~
14 ~~non-priority hydroelectric right that owns or operates privately~~
15 ~~owned facilities that collectively have a capacity of less than two~~
16 ~~megawatts shall be assessed fees at the same rate per acre-foot~~
17 ~~charged to a holder of a non-priority hydroelectric right that owns~~
18 ~~or operates privately owned facilities that collectively have a~~
19 ~~capacity of more than two megawatts.]~~

20 SECTION 1.22. Subsection (e), Section 11.404, Water Code,
21 is amended to read as follows:

22 (e) The court may not assess costs and expenses under this
23 section against:

24 (1) a holder of a non-priority hydroelectric right
25 that owns or operates privately owned facilities that collectively
26 have a capacity of less than two megawatts; or

27 (2) a holder of a water right placed in the Texas Water

1 Trust for a term of at least 20 years.

2 SECTION 1.23. Subchapter I, Chapter 11, Water Code, is
3 amended by adding Section 11.4531 to read as follows:

4 Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For
5 each river basin or segment of a river basin for which the executive
6 director appoints a watermaster under this subchapter, the
7 executive director shall appoint a watermaster advisory committee
8 consisting of at least nine but not more than 15 members. A member
9 of the advisory committee must be a holder of a water right or a
10 representative of a holder of a water right in the river basin or
11 segment of the river basin for which the watermaster is appointed.
12 In appointing members to the advisory committee, the executive
13 director shall consider:

- 14 (1) geographic representation;
15 (2) amount of water rights held;
16 (3) different types of holders of water rights and
17 users, including water districts, municipal suppliers, irrigators,
18 and industrial users; and
19 (4) experience and knowledge of water management
20 practices.

21 (b) An advisory committee member is not entitled to
22 reimbursement of expenses or to compensation.

23 (c) An advisory committee member serves a two-year term
24 expiring August 31 of each odd-numbered year and holds office until
25 a successor is appointed.

26 (d) The advisory committee shall meet within 30 days after
27 the date the initial appointments have been made and shall select a

1 presiding officer to serve a one-year term. The committee shall
2 meet regularly as necessary.

3 (e) The advisory committee shall:

4 (1) make recommendations to the executive director
5 regarding activities of benefit to the holders of water rights in
6 the administration and distribution of water to holders of water
7 rights in the river basin or segment of the river basin for which
8 the watermaster is appointed;

9 (2) review and comment to the executive director on
10 the annual budget of the watermaster operation; and

11 (3) perform other advisory duties as requested by the
12 executive director regarding the watermaster operation or as
13 requested by holders of water rights and considered by the
14 committee to benefit the administration of water rights in the
15 river basin or segment of the river basin for which the watermaster
16 is appointed.

17 SECTION 1.24. Section 11.454, Water Code, is amended to
18 read as follows:

19 Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER.
20 Section 11.327 applies to the duties and authority of a watermaster
21 appointed for a river basin or segment of a river basin under this
22 subchapter in the same manner as that section applies to the duties
23 and authority of a watermaster appointed for a water division under
24 Subchapter G [A watermaster as the agent of the commission and under
25 the executive director's supervision shall:

26 [~~(1) divide the water of the streams or other sources~~
27 ~~of supply of his segment or basin in accordance with the authorized~~

1 ~~water rights,~~

2 ~~[(2) regulate or cause to be regulated the controlling~~
3 ~~works of reservoirs and diversion works in time of water shortage,~~
4 ~~as is necessary because of the rights existing in the streams of his~~
5 ~~segment or basin, or as is necessary to prevent the waste of water~~
6 ~~or its diversion, taking, storage, or use in excess of the~~
7 ~~quantities to which the holders of water rights are lawfully~~
8 ~~entitled; and~~

9 ~~[(3) perform any other duties and exercise any~~
10 ~~authority directed by the commission].~~

11 SECTION 1.25. Section 11.455, Water Code, is amended to
12 read as follows:

13 Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER
14 [ASSESSMENTS]. (a) Section 11.329 applies to the payment of the
15 compensation and expenses of a watermaster appointed for a river
16 basin or segment of a river basin under this subchapter in the same
17 manner as that section applies to the payment of the compensation
18 and expenses of a watermaster appointed for a water division under
19 Subchapter G.

20 (b) The executive director shall deposit the assessments
21 collected under this section to the credit of the watermaster fund.

22 (c) Money deposited under this section to the credit of the
23 watermaster fund may be used only for the purposes specified by
24 Section 11.3291 with regard to the watermaster operation under this
25 subchapter with regard to which the assessments were collected ~~[The~~
26 ~~commission may assess the costs of the watermaster against all~~
27 ~~persons who hold water rights in the river basin or segment of the~~

1 ~~river basin under the watermaster's jurisdiction in accordance with~~
2 ~~Section 11.329 of this code].~~

3 SECTION 1.26. Subchapter F, Chapter 15, Water Code, is
4 amended by adding Section 15.4063 to read as follows:

5 Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. The board may
6 authorize the use of money in the research and planning fund:

7 (1) to compensate the members of the Texas
8 Environmental Flows Science Advisory Committee established under
9 Section 11.02361 for attendance and participation at meetings of
10 the committee and for transportation, meals, lodging, or other
11 travel expenses associated with attendance at those meetings as
12 provided by the General Appropriations Act;

13 (2) for contracts with cooperating state and federal
14 agencies and universities and with private entities as necessary to
15 provide technical assistance to enable the Texas Environmental
16 Flows Science Advisory Committee and the basin and bay expert
17 science teams established under Section 11.02362 to perform their
18 statutory duties;

19 (3) to compensate the members of the expert science
20 teams created pursuant to Section 11.02362(i) for attendance and
21 participation at meetings of the teams and for transportation,
22 meals, lodging, or other travel expenses associated with attendance
23 at those meetings as provided by the General Appropriations Act;
24 and

25 (4) for contracts with political subdivisions
26 designated as representatives of stakeholder committees
27 established pursuant to Section 11.02362 to fund all or part of the

1 administrative expenses for conducting meetings of the stakeholder
2 committee or the associated expert science team.

3 SECTION 1.27. Section 15.7031, Water Code, is amended by
4 amending Subsection (c) and adding Subsection (e) to read as
5 follows:

6 (c) The dedication of any water rights placed in trust must
7 be reviewed and approved by the commission, in consultation with
8 the board, ~~[and]~~ the Parks and Wildlife Department, and the
9 Environmental Flows Commission. In addition, the Department of
10 Agriculture and the basin and bay area stakeholders committee and
11 basin and bay expert science team established under Section
12 11.02362 for the river basin and bay system to which the water right
13 pertains may provide input to the commission, as appropriate,
14 during the review and approval process for dedication of water
15 rights.

16 (e) While a water right is held in the trust, the water
17 authorized for beneficial use under the terms of the water right is
18 considered to be held for instream flows, water quality, fish and
19 wildlife habitat, bay and estuary inflows, or other environmental
20 uses without the need for a permit amendment. After the water right
21 is withdrawn in whole or in part from the trust, the use of the water
22 right or portion of the water right withdrawn must be in accordance
23 with the terms of the water right.

24 SECTION 1.28. Subsection (d), Section 16.059, Water Code,
25 is amended to read as follows:

26 (d) The priority studies shall be completed not later than
27 December 31, 2014 [~~2010~~]. The Parks and Wildlife Department, the

1 commission, and the board shall establish a work plan that
2 prioritizes the studies and that sets interim deadlines providing
3 for publication of flow determinations for individual rivers and
4 streams on a reasonably consistent basis throughout the prescribed
5 study period. Before publication, completed studies shall be
6 submitted for comment to the commission, the board, and the Parks
7 and Wildlife Department.

8 SECTION 1.29. Subsection (h), Section 26.0135, Water Code,
9 as amended by Chapters 234 and 965, Acts of the 77th Legislature,
10 Regular Session, 2001, is reenacted and amended to read as follows:

11 (h) The commission shall apportion, assess, and recover the
12 reasonable costs of administering the water quality management
13 programs under this section from users of water and wastewater
14 permit holders in the watershed according to the records of the
15 commission generally in proportion to their right, through permit
16 or contract, to use water from and discharge wastewater in the
17 watershed. Irrigation water rights, ~~and~~ non-priority
18 hydroelectric rights of a water right holder that owns or operates
19 privately owned facilities that collectively have a capacity of
20 less than two megawatts, and water rights held in the Texas Water
21 Trust for terms of at least 20 years will not be subject to this
22 assessment. The cost to river authorities and others to conduct
23 water quality monitoring and assessment shall be subject to prior
24 review and approval by the commission as to methods of allocation
25 and total amount to be recovered. The commission shall adopt rules
26 to supervise and implement the water quality monitoring,
27 assessment, and associated costs. The rules shall ensure that

1 water users and wastewater dischargers do not pay excessive
2 amounts, that program funds are equitably apportioned among basins,
3 that a river authority may recover no more than the actual costs of
4 administering the water quality management programs called for in
5 this section, and that no municipality shall be assessed cost for
6 any efforts that duplicate water quality management activities
7 described in Section 26.177 [~~of this chapter~~]. The rules
8 concerning the apportionment and assessment of reasonable costs
9 shall provide for a recovery of not more than \$5,000,000 annually.
10 Costs recovered by the commission are to be deposited to the credit
11 of the water resource management account and may be used only to
12 accomplish the purposes of this section. The commission may apply
13 not more than 10 percent of the costs recovered annually toward the
14 commission's overhead costs for the administration of this section
15 and the implementation of regional water quality assessments. The
16 commission, with the assistance and input of each river authority,
17 shall file a written report accounting for the costs recovered
18 under this section with the governor, the lieutenant governor, and
19 the speaker of the house of representatives on or before December 1
20 of each even-numbered year.

21 SECTION 1.30. Subsections (d), (k), (l), and (m), Section
22 11.0236, Subsection (c), Section 11.0237, and Subsection (b),
23 Section 11.1491, Water Code, are repealed.

24 SECTION 1.31. The Study Commission on Water for
25 Environmental Flows is abolished on the effective date of this Act.

26 SECTION 1.32. (a) The governor, lieutenant governor, and
27 speaker of the house of representatives shall appoint the initial

1 members of the Environmental Flows Commission as provided by
2 Section 11.0236, Water Code, as amended by this article, as soon as
3 practicable on or after the effective date of this Act.

4 (b) As soon as practicable after taking office, the initial
5 members of the Environmental Flows Commission shall appoint the
6 initial members of the Texas Environmental Flows Science Advisory
7 Committee as provided by Section 11.02361, Water Code, as added by
8 this article. The terms of the initial members of the committee
9 expire March 1, 2010.

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

16 (d) Each basin and bay area stakeholders committee shall
17 appoint the members of the basin and bay expert science team for the
18 river basin and bay system for which the committee is established as
19 provided by Section 11.02362, Water Code, as added by this article.
20 The terms of the initial members of each team expire April 1 of the
21 fifth year that begins after the year in which the initial
22 appointments are made.

23 (e) The executive director of the Texas Commission on
24 Environmental Quality shall appoint the members of the watermaster
25 advisory committee under Section 11.4531, Water Code, as added by
26 this article, for each river basin or segment of a river basin for
27 which the executive director appoints a watermaster under

1 Subchapter I, Chapter 11, Water Code. The terms of the initial
2 members of each committee expire August 31 of the first
3 odd-numbered year that begins after the year in which the initial
4 appointments are made.

5 SECTION 1.33. The changes in law made by this article
6 relating to a permit for a new appropriation of water or to an
7 amendment to an existing water right that increases the amount of
8 water authorized to be stored, taken, or diverted apply only to:

9 (1) water appropriated under a permit for a new
10 appropriation of water the application for which is pending with
11 the Texas Commission on Environmental Quality on the effective date
12 of this article or is filed with the commission on or after that
13 date; or

14 (2) the increase in the amount of water authorized to
15 be stored, taken, or diverted under an amendment to an existing
16 water right that increases the amount of water authorized to be
17 stored, taken, or diverted and the application for which is pending
18 with the Texas Commission on Environmental Quality on the effective
19 date of this article or is filed with the commission on or after
20 that date.

21 ARTICLE 2. CONJUNCTIVE MANAGEMENT WATER POLICY

22 SECTION 2.01. Section 1.003, Water Code, is amended to read
23 as follows:

24 Sec. 1.003. PUBLIC POLICY. It is the public policy of the
25 state to provide for the conservation and development of the
26 state's natural resources, including:

27 (1) the control, storage, preservation, and

1 distribution of the state's storm and floodwaters and the waters of
2 its rivers and streams for irrigation, power, and other useful
3 purposes;

4 (2) the reclamation and irrigation of the state's
5 arid, semiarid, and other land needing irrigation;

6 (3) the reclamation and drainage of the state's
7 overflowed land and other land needing drainage;

8 (4) the conservation and development of its forest,
9 water, and hydroelectric power;

10 (5) the navigation of the state's inland and coastal
11 waters; ~~and~~

12 (6) the maintenance of a proper ecological environment
13 of the bays and estuaries of Texas and the health of related living
14 marine resources; and

15 (7) the stewardship of public and private lands to
16 benefit waters of the state.

17 SECTION 2.02. Subchapter A, Chapter 1, Water Code, is
18 amended by adding Section 1.004 to read as follows:

19 Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.

20 (a) The legislature finds that responsible land stewardship
21 enhances the efficiency and effectiveness of this state's
22 watersheds by helping to increase surface water and groundwater
23 supplies, resulting in a benefit to the natural resources of this
24 state and to the general public. It is therefore the policy of this
25 state to encourage responsible land stewardship as a significant
26 water management tool.

27 (b) "Land stewardship," as used in this code, is the

1 practice of managing land to conserve or enhance suitable
2 landscapes and the ecosystem values of the land. Land stewardship
3 includes land and habitat management, wildlife conservation, and
4 watershed protection. Land stewardship practices include runoff
5 reduction, prescribed burning, managed grazing, brush management,
6 erosion management, reseeding with native plant species, riparian
7 management and restoration, and spring and creek-bank protection,
8 all of which benefit the water resources of this state.

9 SECTION 2.03. Section 11.002, Water Code, is amended by
10 adding Subdivisions (19) and (20) to read as follows:

11 (19) "Best management practices" means those
12 voluntary efficiency measures that save a quantifiable amount of
13 water, either directly or indirectly, and that can be implemented
14 within a specified time frame.

15 (20) "Conjunctive use" means the use of different
16 water resources in a combination that encourages the most efficient
17 and effective uses of those resources and optimizes the beneficial
18 characteristics of each resource. Water resources for conjunctive
19 use include surface water, groundwater, desalinated surface water
20 or groundwater, and water available for reuse.

21 SECTION 2.04. Subsection (b), Section 11.0235, Water Code,
22 is amended to read as follows:

23 (b) Maintaining the biological soundness of the state's
24 rivers, lakes, bays, and estuaries is of great importance to the
25 public's economic health and general well-being. The legislature
26 encourages responsible water and land stewardship to benefit waters
27 of the state.

1 SECTION 2.05. Section 11.024, Water Code, is amended to
2 read as follows:

3 Sec. 11.024. APPROPRIATION: PREFERENCES. (a) In order to
4 conserve and properly utilize state water, the public welfare
5 requires not only recognition of beneficial uses but also a
6 constructive public policy regarding the preferences between these
7 uses, and it is therefore declared to be the public policy of this
8 state that in appropriating state water preference shall be given
9 to the following uses in the order named:

10 (1) domestic and municipal uses, including water for
11 sustaining human life and the life of domestic animals, it being the
12 public policy of the state and for the benefit of the greatest
13 number of people that in the appropriation of water as herein
14 defined, the appropriation of water for domestic and municipal uses
15 shall be and remain superior to the rights of the state to
16 appropriate the same for all other purposes;

17 (2) agricultural uses and industrial uses, which means
18 processes designed to convert materials of a lower order of value
19 into forms having greater usability and commercial value, including
20 the development of power by means other than hydroelectric;

21 (3) mining and recovery of minerals;

22 (4) hydroelectric power;

23 (5) navigation;

24 (6) recreation and pleasure; and

25 (7) other beneficial uses.

26 (b) In considering requests for appropriation of state
27 water for the same beneficial use, the commission shall give

1 preference to those projects that involve conjunctive use, if
2 conjunctive use is available, reasonable, and cost-effective.

3 SECTION 2.06. Section 11.046, Water Code, is amended by
4 adding Subsection (e) to read as follows:

5 (e) Water appropriated under a permit, certified filing, or
6 certificate of adjudication that is treated under a permit issued
7 under Chapter 26 and then injected into an aquifer for storage and
8 subsequent recovery for beneficial use is not considered surplus
9 for purposes of this chapter.

10 SECTION 2.07. Subchapter D, Chapter 11, Water Code, is
11 amended by adding Section 11.1502 to read as follows:

12 Sec. 11.1502. CONSIDERATION OF CONJUNCTIVE USE. In
13 considering an application for a permit to store, take, or divert
14 surface water, the commission shall consider whether the applicant
15 has made reasonable efforts to incorporate plans for conjunctive
16 use, if conjunctive use is available, reasonable, and
17 cost-effective.

18 SECTION 2.08. Subsection (b), Section 11.173, Water Code,
19 is amended to read as follows:

20 (b) A permit, certified filing, or certificate of
21 adjudication or a portion of a permit, certified filing, or
22 certificate of adjudication is exempt from cancellation under
23 Subsection (a):

24 (1) to the extent of the owner's participation in the
25 Conservation Reserve Program authorized by the Food Security Act,
26 Pub. L. No. 99-198, Secs. 1231-1236, 99 Stat. 1354, 1509-1514
27 (1985) or a similar governmental program;

1 (2) if a significant portion of the water authorized
2 to be used pursuant to a permit, certified filing, or certificate of
3 adjudication has been used in accordance with a specific
4 recommendation for meeting a water need included in the regional
5 water plan approved pursuant to Section 16.053;

6 (3) if the permit, certified filing, or certificate of
7 adjudication:

8 (A) was obtained to meet demonstrated long-term
9 public water supply or electric generation needs as evidenced by a
10 water management plan developed by the holder; and

11 (B) is consistent with projections of future
12 water needs contained in the state water plan; ~~or~~

13 (4) if the permit, certified filing, or certificate of
14 adjudication was obtained as the result of the construction of a
15 reservoir funded, in whole or in part, by the holder of the permit,
16 certified filing, or certificate of adjudication as part of the
17 holder's long-term water planning; or

18 (5) to the extent the nonuse resulted from the
19 implementation of water conservation measures under a water
20 conservation plan submitted by the holder of the permit, certified
21 filing, or certificate of adjudication as evidenced by
22 implementation reports submitted by the holder.

23 SECTION 2.09. Chapter 11, Water Code, is amended by adding
24 Subchapter K to read as follows:

25 SUBCHAPTER K. REMEDIES FOR INTERFERENCE WITH DOMESTIC OR
26 AGRICULTURAL WATER WELL

27 Sec. 11.551. APPLICABILITY. This subchapter applies only

1 to a high-capacity water well that is not owned by a municipality
2 and that:

3 (1) is used for a purpose other than domestic or
4 agricultural use; and

5 (2) is located outside a groundwater conservation
6 district.

7 Sec 11.552. PETITION FOR REVIEW. (a) An owner of a
8 domestic or agricultural well may petition the applicable
9 groundwater management area council for the groundwater management
10 area in which the petitioner's well is located to review the
11 operation of a high-capacity well subject to this subchapter and
12 that may be interfering with the petitioner's well.

13 (b) The petition must demonstrate how the operation of the
14 high-capacity well is interfering with the operation or production
15 rate of the petitioner's well.

16 (c) Within 60 days of receipt of the petition, the
17 groundwater management area council shall decide whether to accept
18 the petition for review. If the council decides to accept the
19 petition, it shall notify the petitioner and the owner of the
20 high-capacity well of the date and time of a public hearing at which
21 the council shall gather all relevant information to evaluate the
22 petition and evaluate the need for modification of the operation of
23 the high-capacity well. If the council decides not to accept the
24 petition, it shall so inform the petitioner and shall provide an
25 explanation of why it has decided not to accept the petition. The
26 council may request technical assistance from the executive
27 director in their review of a petition.

1 (d) A hearing under this section is not subject to the
2 provisions of Subchapter C, Chapter 2001, Government Code.

3 (e) Based on the information in the petition and any
4 relevant information gathered at a public hearing held under
5 Subsection (c), the council shall, within 60 days of the public
6 hearing, make findings and recommendations regarding:

7 (1) the extent to which the operation of the high-capacity
8 well is interfering with the operation of the petitioner's well;

9 (2) the extent to which the operation of the
10 high-capacity well is inconsistent with the desired future
11 condition of the aquifer as adopted by the council; and

12 (3) the modifications that are necessary in the operation
13 of the high-capacity well to ensure that its operation does not
14 interfere with the petitioner's well and that its operation is
15 consistent with the desired future condition of the aquifer.

16 (f) A finding by the council that the operation of the
17 high-capacity well is not interfering with petitioner's well must
18 be based on scientific information that clearly overcomes the
19 information provided by the petitioner.

20 (g) The council shall provide its findings and
21 recommendations in writing and by certified mail to both the
22 petitioner and the owner of the high-capacity well. If the owner of
23 the high-capacity well declines to make the modifications
24 recommended by the council, the petitioner may file a request for
25 relief in the district court for the county in which the
26 petitioner's well is located seeking an injunction that requires
27 the owner of the high-capacity well to implement the council's

1 recommendations.

2 (h) The action for injunctive relief shall be a trial de
3 novo, but the district court shall receive into evidence and
4 consider the findings and recommendations of the council.

5 (i) In an action for injunctive relief, the burden of proof
6 to show why the council's recommendations should not be implemented
7 shall be on the owner of the high-capacity well.

8 SECTION 2.10. Subchapter E, Chapter 13, Water Code, is
9 amended by adding Section 13.146 to read as follows:

10 Sec. 13.146. WATER CONSERVATION PLAN. The commission shall
11 require a retail public utility that provides potable water service
12 to a population of 3,300 or more to submit to the executive
13 administrator of the board a water conservation plan based on
14 specific targets and goals for water savings developed by the
15 retail public utility and using appropriate best management
16 practices, as defined by Section 11.002, or other water
17 conservation strategies as determined by the retail public utility.
18 For purposes of this section, the population served by a retail
19 public utility shall be determined on the basis of the population
20 estimates contained in the most recent regional water plan adopted
21 for the regional water planning area in which the retail public
22 utility's service area is located.

23 SECTION 2.11. Section 15.001, Water Code, is amended by
24 adding Subdivision (14) to read as follows:

25 (14) "Conjunctive use" has the meaning assigned by
26 Section 11.002.

27 SECTION 2.12. Subchapter A, Chapter 15, Water Code, is

1 amended by adding Section 15.009 to read as follows:

2 Sec. 15.009. PRIORITY FOR CONJUNCTIVE USE APPLICATIONS. In
3 its funding programs under this chapter, the board shall give
4 priority to applications for planning funds and water supply
5 projects that promote conjunctive use, if conjunctive use is
6 available, reasonable, and cost-effective. The board shall
7 consider incentives for promoting conjunctive use, including low or
8 zero interest rate loans.

9 SECTION 2.13. Subsection (b), Section 15.102, Water Code,
10 is amended to read as follows:

11 (b) The loan fund may also be used by the board to provide:

12 (1) grants or loans for projects that include
13 supplying water and wastewater services in economically distressed
14 areas or nonborder colonias as provided by legislative
15 appropriations, this chapter, and board rules, including projects
16 involving retail distribution of those services; and

17 (2) grants for:

18 (A) projects for which federal grant funds are
19 placed in the loan fund;

20 (B) projects, on specific legislative
21 appropriation for those projects; or

22 (C) water conservation, desalination, brush
23 control, weather modification, regionalization, conjunctive use
24 projects, and projects providing regional water quality
25 enhancement services as defined by board rule, including regional
26 conveyance systems.

27 SECTION 2.14. Subchapter F, Chapter 15, Water Code, is

1 amended by adding Section 15.4062 to read as follows:

2 Sec. 15.4062. FUNDING FOR GROUNDWATER MANAGEMENT
3 COORDINATION. (a) The board may enter into a contract with a
4 political subdivision designated as a representative of a
5 groundwater management area council established under Section
6 36.108 to pay from the research and planning fund all or part of the
7 cost of performing the groundwater management area planning
8 functions required of the groundwater management area council under
9 Section 36.108.

10 (b) A political subdivision may submit, either individually
11 or jointly with other political subdivisions, a written application
12 to the board to request assistance paying for the planning
13 functions required under Section 36.108.

14 (c) The application must be in the manner and form
15 prescribed by board rules and include:

16 (1) the name of each political subdivision
17 participating in the application;

18 (2) a citation to each law under which each political
19 subdivision was created and is operating, including specific
20 citation of any law providing authority to perform the functions
21 under Section 36.108;

22 (3) the amount of money being requested; and

23 (4) any other relevant information required by board
24 rules or specifically requested by the board.

25 (d) After providing notice of and conducting a hearing on
26 the application, the board may award the applicant the amount of
27 money the board considers necessary to perform the functions under

1 Section 36.108.

2 (e) If the board grants an application under this section
3 and awards money, the board shall enter into a contract with each
4 participating political subdivision that includes:

5 (1) a detailed statement of the purpose for which the
6 money is to be used;

7 (2) the total amount of the award to be paid by the
8 board from the research and planning fund; and

9 (3) any other terms and conditions required by board
10 rules or agreed to by the contracting parties.

11 (f) The board shall adopt rules establishing criteria for
12 making grants of money under this section that include:

13 (1) the relative need of the political subdivision for
14 the money;

15 (2) the legal authority of the political subdivision
16 to perform the duties required under the contract; and

17 (3) the degree to which groundwater management area
18 planning by each political subdivision for the groundwater
19 management area council will address the issues of groundwater
20 management in the groundwater management area.

21 (g) The board may not award money under this section if
22 existing information or data is sufficient for the performance of
23 functions under Section 36.108.

24 (h) The board shall require that information developed or
25 revised under a contract entered into under this section be made
26 available to the commission, the Department of Agriculture, and the
27 Parks and Wildlife Department.

1 SECTION 2.15. Subsection (a), Section 15.974, Water Code,
2 is amended to read as follows:

3 (a) The board may use the fund:

4 (1) to make loans to political subdivisions at or
5 below market interest rates for projects;

6 (2) to make grants, low-interest loans, or zero
7 interest loans to political subdivisions for projects to serve
8 areas outside metropolitan statistical areas in order to ensure
9 that the projects are implemented, for conjunctive use projects, or
10 for projects to serve economically distressed areas;

11 (3) to make loans at or below market interest rates for
12 planning and design costs, permitting costs, and other costs
13 associated with state or federal regulatory activities with respect
14 to a project;

15 (4) as a source of revenue or security for the payment
16 of principal and interest on bonds issued by the board if the
17 proceeds of the sale of the bonds will be deposited in the fund; and

18 (5) to pay the necessary and reasonable expenses of
19 the board in administering the fund.

20 SECTION 2.16. Section 16.001, Water Code, is amended by
21 adding Subdivision (13) to read as follows:

22 (13) "Conjunctive use" has the meaning assigned by
23 Section 11.002.

24 SECTION 2.17. Subchapter B, Chapter 16, Water Code, is
25 amended by adding Section 16.0122 to read as follows:

26 Sec. 16.0122. TECHNICAL ASSISTANCE FOR GROUNDWATER
27 MANAGEMENT AREAS. For each groundwater management area established

1 under Section 35.007, the executive administrator shall provide one
2 or more employees of the board to assist the groundwater management
3 area council and the districts in the council's groundwater
4 management area. The employees shall provide assistance:

5 (1) training district employees or the district board
6 on basic data collection protocols;

7 (2) collecting and interpreting data;

8 (3) providing technical services or expertise;

9 (4) conducting hydrogeologic investigations;

10 (5) providing groundwater availability modeling;

11 (6) developing a district's groundwater management
12 plan;

13 (7) preparing for or conducting a joint planning
14 effort for districts in a groundwater management area or for a
15 district and a regional water planning group established under
16 Section 16.053, including assistance in avoiding and resolving
17 conflicts; and

18 (8) providing education.

19 SECTION 2.18. Section 16.022, Water Code, is amended to
20 read as follows:

21 Sec. 16.022. WATER CONSERVATION MONITORING; REPORT
22 [STUDY]. (a) The board [~~and the State Soil and Water Conservation~~
23 Board] shall:

24 (1) monitor trends in water conservation
25 implementation;

26 (2) monitor new technologies for possible inclusion by
27 the board and commission in updating water conservation programs

1 that suggest best management practices under Section 11.1271(e);

2 (3) monitor the effectiveness of the statewide water
3 conservation public awareness program developed under Section
4 16.401 and associated local involvement in implementation of the
5 program;

6 (4) monitor the implementation of water conservation
7 strategies by water users included in regional water plans; and

8 (5) monitor target and goal guidelines for water
9 conservation to be considered by the board and the commission under
10 Section 11.1271(d).

11 (b) Not later than December 1 of each even-numbered year,
12 the board shall submit to the governor, lieutenant governor, and
13 speaker of the house of representatives a report on the progress
14 made in water conservation in this state [~~jointly conduct a study of~~
15 ~~the ways to improve or expand water conservation efforts and report~~
16 ~~to the legislature].~~

17 ~~[(b) The report must include:~~

18 ~~[(1) an assessment of both agricultural and municipal~~
19 ~~water conservation issues;~~

20 ~~[(2) information on existing conservation efforts by~~
21 ~~the board and the State Soil and Water Conservation Board;~~

22 ~~[(3) information on existing conservation efforts by~~
23 ~~municipalities receiving funding from the board, as specified in~~
24 ~~water conservation plans submitted by the municipalities as part of~~
25 ~~their applications for assistance;~~

26 ~~[(4) a discussion of future conservation needs;~~

27 ~~[(5) an analysis of programmatic approaches and~~

1 ~~funding for additional conservation efforts,~~

2 ~~[(6) an assessment of existing statutory authority and~~
3 ~~whether changes are needed to more effectively promote and fund~~
4 ~~conservation projects, and~~

5 ~~[(7) an assessment of the board's agricultural water~~
6 ~~conservation program.~~

7 ~~[(c) The report shall be issued as part of, or as a~~
8 ~~supplement to, the state water plan.]~~

9 SECTION 2.19. Section 16.053, Water Code, is amended by
10 adding Subsection (d-1) and amending Subsection (e) to read as
11 follows:

12 (d-1) The applicable groundwater management area councils
13 shall provide to each regional water planning group and the board
14 their adopted estimates of the amount of managed available
15 groundwater in each applicable groundwater management area.

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

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

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

23 (3) identifies:

24 (A) each source of water supply in the regional
25 water planning area, including information supplied by the
26 applicable groundwater management area councils under Subsection
27 (d-1) on the amount of managed available groundwater in the

1 applicable groundwater management areas, in accordance with the
2 guidelines provided by the board under Subsections (d) and (f);

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

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

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

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

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

13 (B) approved [~~certified~~] groundwater
14 conservation district management plans and other plans submitted
15 under Section 16.054;

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

21 (D) protection of existing water rights in the
22 region;

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

26 (F) appropriate provision for environmental
27 water needs and for the effect of upstream development on the bays,

1 estuaries, and arms of the Gulf of Mexico and the effect of plans on
2 navigation;

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

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

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

13 (6) identifies river and stream segments of unique
14 ecological value and sites of unique value for the construction of
15 reservoirs that the regional water planning group recommends for
16 protection under Section 16.051;

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

21 (8) describes the impact of proposed water projects on
22 water quality.

23 SECTION 2.20. Subsection (h), Section 16.053, Water Code,
24 is amended by adding Subdivisions (10), (11), and (12) to read as
25 follows:

26 (10) The regional water planning group may amend the
27 regional water plan after the plan has been approved by the board.

1 Subdivisions (1)-(9) apply to an amendment to the plan in the same
2 manner as those subdivisions apply to the plan.

3 (11) This subdivision applies only to an amendment to
4 a regional water plan approved by the board. This subdivision does
5 not apply to the adoption of a subsequent regional water plan for
6 submission to the board as required by Subsection (i).
7 Notwithstanding Subdivision (10), the regional water planning
8 group may amend the plan in the manner provided by this subdivision
9 if the executive administrator issues a written determination that
10 the amendment qualifies for adoption in the manner provided by this
11 subdivision before the regional water planning group votes on
12 adoption of the amendment. An amendment qualifies for adoption in
13 the manner provided by this subdivision only if the amendment will
14 not result in the overallocation of any existing or planned source
15 of water, does not relate to a new reservoir, and will not have a
16 significant effect on instream flows or freshwater inflows to bays
17 and estuaries. If the executive administrator determines that an
18 amendment qualifies for adoption in the manner provided by this
19 subdivision, the regional water planning group may adopt the
20 amendment at a public meeting held in accordance with Chapter 551,
21 Government Code. The amendment must be placed on the agenda for the
22 meeting, and notice of the meeting must be given in the manner
23 provided by Chapter 551, Government Code, at least two weeks before
24 the date the meeting is held. The public must be provided an
25 opportunity to comment on the amendment at the meeting.

26 (12) Notwithstanding Subdivisions (10) and (11), a
27 regional water planning group may revise a regional water plan

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

11 SECTION 2.21. Section 16.131, Water Code, is amended to
12 read as follows:

13 Sec. 16.131. AUTHORIZED PROJECTS. (a) The board may use
14 the state participation account of the development fund to
15 encourage optimum regional development of projects including the
16 design, acquisition, lease, construction, reconstruction,
17 development, or enlargement in whole or part of:

18 (1) reservoirs and storm water retention basins for
19 water supply, flood protection, and groundwater recharge;

20 (2) facilities for the transmission and treatment of
21 water; and

22 (3) treatment works as defined by Section 17.001 [~~of~~
23 ~~this code~~].

24 (b) In its funding programs under this chapter, the board
25 shall give priority to applications for water supply projects that
26 promote conjunctive use, if conjunctive use is available,
27 reasonable, and cost-effective. The board shall consider

1 incentives for promoting conjunctive use, including low or zero
2 interest rate loans.

3 SECTION 2.22. Chapter 16, Water Code, is amended by adding
4 Subchapters K and L to read as follows:

5 SUBCHAPTER K. WATER CONSERVATION

6 Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS
7 PROGRAM. The executive administrator shall develop and implement a
8 statewide water conservation public awareness program to educate
9 residents of this state about water conservation. The program
10 shall take into account the differences in water conservation needs
11 of various geographic regions of the state and shall be designed to
12 complement and support existing local and regional water
13 conservation programs.

14 Sec. 16.402. PROTECTION AND USE OF INTELLECTUAL PROPERTY
15 AND PUBLICATIONS. (a) In connection with the statewide water
16 conservation awareness program, the executive administrator may:

17 (1) apply for, register, secure, hold, and protect
18 under the laws of the United States, a state, or a foreign country a
19 patent, copyright, trademark, or other evidence of protection or
20 exclusivity issued in or for an idea, publication, or other
21 original innovation fixed in a tangible medium, including:

22 (A) a literary work;

23 (B) a logo;

24 (C) a service mark;

25 (D) a study;

26 (E) a map or planning document;

27 (F) an engineering, architectural, or graphic

1 design;

2 (G) a manual;

3 (H) automated systems software;

4 (I) an audiovisual work;

5 (J) a sound recording; or

6 (K) educational materials, including a pamphlet,

7 bulletin, book, map, periodical, or electronic information;

8 (2) enter into a nonexclusive license agreement with a
9 third party for the receipt of a fee, royalty, or other thing of
10 monetary or nonmonetary value;

11 (3) waive or reduce the amount of a fee, royalty, or
12 other thing of monetary or nonmonetary value to be assessed if the
13 executive administrator determines that the waiver will:

14 (A) further the goals and missions of the board;

15 and

16 (B) result in a net benefit to the state; and

17 (4) adopt and enforce rules necessary to implement
18 this section.

19 (b) Money paid to the board under this section shall be
20 deposited to the credit of the water infrastructure fund.

21 Sec. 16.403. WATER CONSERVATION PLAN REVIEW. (a) Each
22 entity that is required to submit a water conservation plan to the
23 commission under this code shall submit a copy of the plan to the
24 executive administrator.

25 (b) Each entity that is required to submit a water
26 conservation plan to the executive administrator, board, or
27 commission under this code shall report annually to the executive

1 administrator on the entity's progress in implementing the plan.

2 (c) The executive administrator shall review each water
3 conservation plan and annual report to determine compliance with
4 the minimum requirements of all applicable laws and rules.

5 SUBCHAPTER L. REGISTRATION AND REPORTING OF WATER TRANSACTIONS

6 Sec. 16.451. SCOPE OF SUBCHAPTER. This subchapter does not
7 apply to a sale or lease of land that includes the transfer of the
8 ownership of or a leasehold interest in the groundwater or surface
9 water rights unless the primary purpose of the purchaser or lessee
10 in purchasing or leasing the land is to acquire the ownership of or
11 a leasehold interest in the groundwater or surface water rights.

12 Sec. 16.452. REGISTRATION REQUIRED. Unless the person is
13 registered by the executive administrator under this subchapter, a
14 person may not:

15 (1) sell or lease a right of any kind to more than 100
16 acre-feet a year of surface water or groundwater to another person;
17 or

18 (2) agree to provide more than 100 acre-feet a year of
19 surface water or groundwater to another person.

20 Sec. 16.453. ELIGIBILITY FOR REGISTRATION. To be eligible
21 for registration under this subchapter, a person must submit to the
22 executive administrator:

23 (1) an application on a form prescribed by board rule;
24 and

25 (2) a fee in an amount determined by board rule that is
26 sufficient to cover the costs incurred by the board in
27 administering this subchapter.

1 Sec. 16.454. REGISTRATION RENEWAL. Registration under this
2 subchapter must be renewed annually.

3 Sec. 16.455. REPORTING WATER TRANSACTIONS. A person who
4 sells or leases a right of any kind to more than 100 acre-feet a year
5 of surface water or groundwater to another person or agrees to
6 provide more than 100 acre-feet a year of surface water or
7 groundwater to another person shall report the sale, lease, or
8 agreement to the executive administrator not later than the 30th
9 day after the date of closing of the sale or execution of the lease
10 or agreement by submitting to the executive administrator:

11 (1) a report concerning the sale, lease, or agreement
12 that complies with rules adopted by the board; and

13 (2) a transaction reporting fee in an amount
14 determined by board rule that is sufficient to cover the costs
15 incurred by the board in administering this subchapter.

16 Sec. 16.456. ADMINISTRATIVE PENALTY. (a) A person who
17 sells or leases a right of any kind to surface water or groundwater
18 or agrees to provide surface water or groundwater in violation of
19 Section 16.452 or 16.455 is subject to an administrative penalty.
20 The amount of the penalty may not exceed \$5,000 for each sale,
21 lease, or agreement in violation of Section 16.452 or 16.455. A
22 separate penalty may be imposed for a violation of each section if a
23 sale, lease, or agreement violates both sections.

24 (b) The executive administrator may refer a violation of
25 Section 16.452 or 16.455 to the commission. The commission may
26 impose an administrative penalty for the violation in the manner
27 provided by Subchapter C, Chapter 7.

1 Sec. 16.457. DEPOSIT OF FEES AND PENALTIES IN WATER
2 INFRASTRUCTURE FUND. A fee or administrative penalty collected
3 under this subchapter shall be deposited to the credit of the water
4 infrastructure fund.

5 SECTION 2.23. Section 17.001, Water Code, is amended by
6 adding Subdivision (26) to read as follows:

7 (26) "Conjunctive use" has the meaning assigned by
8 Section 11.002.

9 SECTION 2.24. Subchapter A, Chapter 17, Water Code, is
10 amended by adding Section 17.004 to read as follows:

11 Sec. 17.004. PRIORITY FOR CONJUNCTIVE USE APPLICATIONS. In
12 its funding programs under this chapter, the board shall give
13 priority to applications for water supply projects that promote
14 conjunctive use, if conjunctive use is available, reasonable, and
15 cost-effective. The board shall consider incentives for promoting
16 conjunctive use, including low or zero interest rate loans.

17 SECTION 2.25. Section 17.125, Water Code, is amended by
18 adding Subsection (b-2) to read as follows:

19 (b-2) The board shall give priority to applications for
20 funds for implementation of water supply projects in the state
21 water plan by entities that:

22 (1) have already demonstrated significant water
23 conservation savings; or

24 (2) will achieve significant water conservation
25 savings by implementing the proposed project for which the
26 financial assistance is sought.

27 SECTION 2.26. Section 26.001, Water Code (effective upon

1 delegation of NPDES authority), is amended by adding Subdivision
2 (27) to read as follows:

3 (27) "Treated effluent" means waste that has been
4 treated as required by, and is authorized to be discharged under, a
5 permit.

6 SECTION 2.27. Section 26.003, Water Code, is amended to
7 read as follows:

8 Sec. 26.003. POLICY OF THIS SUBCHAPTER. It is the policy of
9 this state and the purpose of this subchapter to maintain the
10 quality of water in the state consistent with the public health and
11 enjoyment, the propagation and protection of terrestrial and
12 aquatic life, and the operation of existing industries, taking into
13 consideration the economic development of the state; to encourage
14 and promote the development and use of regional and areawide waste
15 collection, treatment, and disposal systems to serve the waste
16 disposal needs of the citizens of the state; to encourage the
17 stewardship of public and private lands to benefit waters of the
18 state; and to require the use of all reasonable methods to implement
19 this policy.

20 SECTION 2.28. Section 26.027, Water Code (effective upon
21 delegation of NPDES permit authority), is amended by adding
22 Subsections (a-1) and (c-1) to read as follows:

23 (a-1) The commission may issue permits and amendments to
24 permits for the injection and subsequent recovery for beneficial
25 use of treated effluent into an aquifer in this state. A permit may
26 not be issued authorizing the injection of any radiological,
27 chemical, or biological warfare agent or high-level radioactive

1 waste. The commission may issue a permit only if the commission
2 finds that issuance of the permit would not:

3 (1) violate a state or federal law or a rule or
4 regulation adopted under such a law;

5 (2) alter the physical, chemical, or biological
6 quality of native groundwater to a degree that the introduction of
7 treated effluent would:

8 (A) render groundwater produced from the aquifer
9 harmful or detrimental to people, animals, vegetation, or property;

10 or

11 (B) require treatment of the groundwater to a
12 greater extent than the native groundwater requires before being
13 applied to that beneficial use; or

14 (3) interfere with the purpose of this chapter.

15 (c-1) A person may not commence injection of treated
16 effluent until the commission has issued a permit to authorize the
17 injection from the treatment facility, except with the approval of
18 the commission.

19 SECTION 2.29. Section 27.012, Water Code, is amended by
20 adding Subsection (c) to read as follows:

21 (c) Applications for injection of treated effluent under a
22 permit issued under Chapter 26 for purposes of injection into an
23 aquifer for storage and subsequent recovery for beneficial use
24 shall be processed in accordance with this chapter for the benefit
25 of the state and the preservation of its natural resources.

26 SECTION 2.30. Subchapter B, Chapter 27, Water Code, is
27 amended by adding Section 27.022 to read as follows:

1 Sec. 27.022. PERMIT FOR INJECTION FOR STORAGE AND RECOVERY
2 OF TREATED EFFLUENT IN CLASS V WELLS. (a) The commission may issue
3 a permit to inject for storage and subsequent recovery for
4 beneficial use treated effluent under a permit issued under Chapter
5 26 in a Class V injection well if the applicant for the permit meets
6 all the statutory and regulatory requirements for the issuance of a
7 permit for a Class V injection well.

8 (b) The commission by rule shall provide for public notice
9 and comment on an application for a permit authorized by this
10 section. Notwithstanding Section 27.018, an application for a
11 permit authorized by this section is not subject to the hearing
12 requirements of Chapter 2001, Government Code.

13 SECTION 2.31. Subsection (c), Section 35.004, Water Code,
14 is amended to read as follows:

15 (c) The Texas Water Development Board may not alter the
16 boundaries of designated management areas [~~as required by future~~
17 ~~conditions and as justified by factual data. An alteration of~~
18 ~~boundaries does not invalidate the previous creation of any~~
19 ~~district~~].

20 SECTION 2.32. Subsection (b), Section 35.018, Water Code,
21 is amended to read as follows:

22 (b) The report must include:

23 (1) the names and locations of all priority
24 groundwater management areas and districts created or attempted to
25 be created on or after November 5, 1985, the effective date of
26 Chapter 133 (H.B. No. 2), Acts of the 69th Legislature, Regular
27 Session, 1985;

1 (2) the authority under which each priority
2 groundwater management area and district was proposed for creation;

3 (3) a detailed analysis of each election held to
4 confirm the creation of a district, including analysis of election
5 results, possible reasons for the success or failure to confirm the
6 creation of a district, and the possibility for future voter
7 approval of districts in areas in which attempts to create
8 districts failed;

9 (4) a detailed analysis of the activities of each
10 district created, including those districts which are implementing
11 management plans approved [~~certified~~] under Section 36.1072;

12 (5) a report on [~~audits performed on districts under~~
13 ~~Section 36.302 and~~] remedial actions taken under Section 36.303;

14 (6) recommendations for changes in this chapter and
15 Chapter 36 that will facilitate the creation of priority
16 groundwater management areas and the creation and operation of
17 districts;

18 (7) a report on educational efforts in newly
19 designated priority groundwater management areas; and

20 (8) any other information and recommendations that the
21 commission considers relevant.

22 SECTION 2.33. Section 36.001, Water Code, is amended by
23 amending Subdivision (21) 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, or any successor program.

1 (21) "Conjunctive use" has the meaning assigned by
2 Section 11.002 [~~means the combined use of groundwater and surface~~
3 ~~water sources that optimizes the beneficial characteristics of each~~
4 ~~source~~].

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

8 (25) "Managed available groundwater" means the amount
9 of water that may be permitted by a district for beneficial use in
10 accordance with the desired future condition of the aquifer as
11 determined by the groundwater management area council.

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

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

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

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

1 or if agreed to by stipulation of the parties.

2 SECTION 2.34. Subchapter A, Chapter 36, Water Code, is
3 amended by adding Section 36.0016 to read as follows:

4 Sec. 36.0016. POLICY GOAL. It is the policy goal of this
5 chapter to ensure the consistent management of groundwater in a
6 shared management area by the groundwater conservation districts
7 located in that area.

8 SECTION 2.35. Section 36.002, Water Code, is amended to
9 read as follows:

10 Sec. 36.002. OWNERSHIP OF GROUNDWATER. The ownership and
11 rights of the owners of the land and their lessees and assigns in
12 groundwater are hereby recognized, and nothing in this code shall
13 be construed as depriving or divesting the owners or their lessees
14 and assigns of the ownership or rights, except as those rights may
15 be limited or altered by rules promulgated by a district. A rule
16 promulgated by a district may not discriminate between owners of
17 land that is irrigated for production and owners of land or their
18 lessees and assigns whose land that was irrigated for production is
19 enrolled or participating in a federal conservation program.

20 SECTION 2.36. Subchapter B, Chapter 36, Water Code, is
21 amended by adding Section 36.022 to read as follows:

22 Sec. 36.022. GROUNDWATER CONSERVATION DISTRICT FOR
23 STATE-OWNED LAND. (a) The commission may create a district
24 composed of all state-owned land that is not inside the boundaries
25 of a confirmed groundwater conservation district on the date the
26 statewide district is created.

27 (b) The members of the commission shall serve as the board

1 of directors of the district.

2 (c) The district has all powers and duties of a district
3 provided by Subchapter D.

4 (d) The following laws do not apply to the district created
5 under this section:

6 (1) Section 12.081;

7 (2) Sections 36.011-36.021;

8 (3) Subchapters C, E, F, G, H, I, J, and K; and

9 (4) Chapter 49.

10 (e) At least 30 days before the district is created under
11 this section, the commission shall publish notice of the intention
12 to create the district, setting forth the general powers and duties
13 of the district in a newspaper having general circulation in each
14 county with land to be included in the territory of the district.

15 SECTION 2.37. Subsections (a), (b), and (d) through (g),
16 Section 36.1071, Water Code, are amended to read as follows:

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

21 (1) providing the most efficient use of groundwater;

22 (2) controlling and preventing waste of groundwater;

23 (3) controlling and preventing subsidence;

24 (4) addressing conjunctive surface water management
25 issues;

26 (5) addressing natural resource issues;

27 (6) addressing drought conditions; ~~and~~

1 (7) addressing conservation, recharge enhancement,
2 rainwater harvesting, precipitation enhancement, or brush control,
3 where appropriate and cost-effective;

4 (8) addressing a data collection program that meets
5 standards established by Texas Water Development Board rules; and

6 (9) addressing in a quantitative manner the desired
7 future conditions for the groundwater resources within the district
8 established by the groundwater management area council under
9 Section 36.108.

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

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

20 (e) In the management plan described under Subsection (a),
21 the district shall:

22 (1) identify the performance standards and management
23 objectives under which the district will operate to achieve the
24 management goals identified under Subsection (a);

25 (2) specify, in as much detail as possible, the
26 actions, procedures, performance, and avoidance that are or may be
27 necessary to effect the plan, including specifications and proposed

1 rules;

2 (3) include estimates of the following:

3 (A) managed available [~~the existing total usable~~
4 ~~amount of~~] groundwater in the district as provided by the executive
5 administrator and based on the desired future condition of the
6 aquifers established by the groundwater management area council
7 under Section 36.108;

8 (B) the amount of groundwater [~~being~~] used within
9 the district on an annual basis for each of the preceding 10 years;

10 (C) the annual amount of recharge, if any, to the
11 groundwater resources within the district and how natural or
12 artificial recharge may be increased; and

13 (D) the projected water supply and projected
14 demand for water within the district; and

15 (4) address water supply needs in a manner that is not
16 in 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 continued operation of existing wells and rules governing procedure
24 before the district's board; however, the district may accept
25 applications for permits under Section 36.113, provided the
26 district does not act on any such application until the district's
27 management plan is approved as provided in Section 36.1072, unless

1 special circumstances are demonstrated which necessitate the
2 granting of one or more interim authorizations to drill and operate
3 new wells prior to the management plan's approval.

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 SECTION 2.38. Section 36.1072, Water Code, is amended to
9 read as follows:

10 Sec. 36.1072. COUNCIL [~~TEXAS WATER DEVELOPMENT BOARD~~]
11 REVIEW AND APPROVAL [~~CERTIFICATION~~] OF MANAGEMENT PLAN. (a) A
12 district shall, not later than three [~~two~~] years after the creation
13 of the district or, if the district required confirmation, after
14 the election confirming the district's creation, submit the
15 management plan required under Section 36.1071 to the executive
16 administrator for review and comment and to the groundwater
17 management area council for review and approval [~~certification~~].
18 The executive administrator shall provide comments to the
19 groundwater management area council and groundwater district on the
20 plan, including whether the plan contains goals and objectives
21 consistent with achieving the desired future condition of the
22 relevant aquifers as adopted by the groundwater management area
23 council under Section 36.108.

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 council [~~executive~~
27 ~~administrator~~] shall approve [~~certify~~] a management plan that

1 contains goals and objectives consistent with achieving the desired
2 future condition of the relevant aquifers as adopted by the
3 groundwater management area council under Section 36.108 and that
4 contains [~~if the plan is administratively complete. A management~~
5 ~~plan is administratively complete when it contains~~] the information
6 required to be submitted under Section 36.1071. The groundwater
7 management area council [~~executive administrator~~] may determine
8 whether [~~that~~] conditions justify waiver of the requirements under
9 Section 36.1071(e)(4).

10 (c) Once the groundwater management area council has
11 approved a [~~determination that a~~] management plan [~~is~~
12 ~~administratively complete has been made~~]:

13 (1) the council [~~executive administrator~~] may not
14 revoke but may suspend the approval as provided by Subsection (g)
15 [~~determination that a management plan is administratively~~
16 ~~complete~~]; and

17 (2) the council [~~executive administrator~~] may request
18 additional information from the district if the information is
19 necessary to clarify, modify, or supplement previously submitted
20 material, but [~~and~~

21 [~~3~~] a request for additional information does not
22 render the management plan unapproved [~~incomplete~~].

23 (d) A management plan takes effect on approval
24 [~~certification~~] by the groundwater management area council
25 [~~executive administrator~~] or, if appealed, on approval
26 [~~certification~~] by the Texas Water Development Board.

27 (e) The district [~~board~~] may review the plan annually and

1 must review and readopt the plan with or without revisions at least
2 once every five years. The district shall provide the readopted
3 plan to the executive administrator and groundwater management area
4 council not later than the 60th day after the date on which the plan
5 was readopted. Approval of the preceding management plan remains
6 in effect until:

7 (1) the district fails to timely readopt a management
8 plan;

9 (2) the district fails to timely submit the district's
10 readopted management plan to the executive administrator or the
11 council; or

12 (3) the council determines that the readopted
13 management plan does not meet the requirements for approval, and
14 the district has exhausted all appeals to the Texas Water
15 Development Board.

16 (f) If the groundwater management area council [~~executive~~
17 ~~administrator~~] does not approve [~~certify~~] the management plan, the
18 council [~~executive administrator~~] shall provide to the district, in
19 writing, the reasons for the action. Not later than the 180th day
20 after the date a district receives notice that its management plan
21 has not been approved [~~certified~~], the district may submit a
22 revised management plan for review and approval [~~certification~~].
23 The council's [~~executive administrator's~~] decision may be appealed
24 to the Texas Water Development Board. The decision of the Texas
25 Water Development Board on whether to approve [~~certify~~] the
26 management plan may [~~not~~] be appealed to a district court in the
27 county where the district is headquartered. The commission shall

1 not take enforcement action against a district under Subchapter I
2 until the later of the expiration of the 180-day period or the date
3 the Texas Water Development Board has taken final action
4 withholding approval [~~certification~~] of a revised management plan.

5 (g) In this subsection, "development board" means the Texas
6 Water Development Board, and "council" means the groundwater
7 management area council. A person with a legally defined interest
8 in groundwater in a district or the regional water planning group
9 may file a petition with the council [~~board~~] stating that a conflict
10 requiring resolution may exist between the district's approved
11 [~~certified groundwater conservation district~~] management plan
12 developed under Section 36.1071 and the state water plan. If a
13 conflict exists, the council [~~board~~] shall facilitate coordination
14 between the involved person or regional water planning group and
15 the district to resolve the conflict. If conflict remains, the
16 council shall petition the development board to [~~shall~~] resolve the
17 conflict. The development board action under this provision may be
18 consolidated, at the option of the development board, with related
19 action under Section 16.053(p). If the development board
20 determines that resolution of the conflict requires a revision of
21 the approved [~~certified groundwater conservation district~~]
22 management plan, the council [~~board~~] shall suspend the approval
23 [~~certification~~] of the plan and provide information to the
24 district. The district shall prepare any revisions to the plan
25 specified by the council [~~board~~] and shall hold, after notice, at
26 least one public hearing at some central location within the
27 district. The district shall consider all public and development

1 board comments, prepare, revise, and adopt its plan, and submit the
2 revised plan to the council [~~board~~] for approval [~~certification~~].
3 On the request of the district or the regional water planning group,
4 the development board shall include discussion of the conflict and
5 its resolution in the state water plan that the development board
6 provides to the governor, the lieutenant governor, and the speaker
7 of the house of representatives under Section 16.051(e).

8 SECTION 2.39. Section 36.1073, Water Code, is amended to
9 read as follows:

10 Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment
11 to the management plan shall be submitted to the groundwater
12 management area council and the executive administrator for review
13 and comment within 60 days following adoption of the amendment by
14 the district's board. The council [~~executive administrator~~] shall
15 review and approve and the executive administrator shall review and
16 comment on [~~certify~~] any amendment which substantially affects the
17 management plan in accordance with the procedures established under
18 Section 36.1072.

19 SECTION 2.40. Subchapter D, Chapter 36, Water Code, is
20 amended by amending Section 36.108 and adding Sections 36.1081 and
21 36.1082 to read as follows:

22 Sec. 36.108. GROUNDWATER MANAGEMENT AREA COUNCIL; [JOINT]
23 PLANNING IN MANAGEMENT AREA. (a) In this section, "development
24 board" means the Texas Water Development Board.

25 (b) The development board shall establish a groundwater
26 management area council for each management area designated under
27 Section 35.004 and shall appoint the members of the council, except

1 as provided by this section. The groundwater management area
2 council shall ensure the coordination of groundwater management in
3 each management area.

4 (c) Each groundwater management area council is composed of
5 the following representatives:

6 (1) the presiding officer of each groundwater
7 conservation district in the groundwater management area or the
8 presiding officer's designee;

9 (2) one additional representative of each multicounty
10 groundwater conservation district, if the district chooses to
11 appoint one; and

12 (3) residents of a district in the groundwater
13 management area appointed by the development board as follows:

14 (A) one representative of retail water utility or
15 municipal interests located wholly or partly in the groundwater
16 management area;

17 (B) one representative of a regional water
18 planning group, as designated under Section 16.053, to represent
19 all the regional water planning groups located wholly or partly in
20 the groundwater management area;

21 (C) one representative of agricultural interests
22 who is an individual actively engaged in production agriculture;

23 (D) one representative of industrial or
24 manufacturing interests located wholly or partly in the groundwater
25 management area; and

26 (E) if applicable, one representative who holds a
27 permit from a district to use groundwater outside the boundaries of

1 the district.

2 (d) If the number of representatives on the groundwater
3 management area council that results from the application of
4 Subsection (c) is an even number, the representatives shall appoint
5 an additional representative by a two-thirds vote of those
6 representatives. The additional member must be a resident of a
7 district in the groundwater management area with a reasonable
8 knowledge of groundwater issues and hydrology in the area.

9 (e) The groundwater management area council shall elect one
10 of the representatives as presiding officer of the council.

11 (f) A person appointed under Subsection (c)(3) or (d) may
12 not be an employee or officer of a district or a state or federal
13 agency.

14 (g) A member of the council appointed under Subsection
15 (c)(3) or (d) serves a two-year term expiring August 31 of each
16 odd-numbered year. If a vacancy occurs, the council shall appoint a
17 successor not later than the 60th day after the date the council
18 receives notice of the vacancy.

19 (h) Not later than the fifth anniversary, after funding is
20 made available, of the appointment of a groundwater management area
21 council, and at least every fifth year after that anniversary, each
22 groundwater management area council shall adopt a statement that in
23 a quantified manner describes the desired future conditions of each
24 aquifer in the groundwater management area, which may include
25 protection of spring flow in the area.

26 (i) A groundwater management area council may:

27 (1) in coordination with the executive administrator,

1 perform areawide hydrogeologic studies and modeling as supplements
2 to the groundwater availability models obtained or developed by the
3 executive administrator under Section 16.012;

4 (2) coordinate with a district, regional water
5 planning group, political subdivision, the commission, the
6 development board, or any other person or entity regarding
7 groundwater management;

8 (3) establish groundwater monitoring networks in the
9 groundwater management area; and

10 (4) designate a political subdivision to perform a
11 duty required by this section, including by executing a necessary
12 contract.

13 (j) In adopting the desired future conditions of each
14 aquifer under Subsection (h), each groundwater management area
15 council shall:

16 (1) use groundwater availability models developed by
17 the executive administrator or other data approved by the executive
18 administrator; and

19 (2) consider recommendations that districts or other
20 interested persons in the groundwater management area propose.

21 (k) The commission and the development board shall provide
22 technical assistance to a groundwater management area council in
23 the development of the statement adopted under Subsection (h).

24 (l) Each groundwater management area council shall submit
25 the council's final statement adopted under Subsection (h) to the
26 executive administrator for review and comment. If the development
27 board finds that the submitted statement and estimate are in

1 conflict with the state water plan or the groundwater availability
2 adopted by the development board for the council's groundwater
3 management area, the development board shall provide comment and
4 recommendations to the council to resolve the conflict. The
5 council shall amend the adopted statement and estimate accordingly.
6 The executive administrator shall provide an estimate of managed
7 available groundwater to the groundwater management area council
8 based on the council's statement adopted under Subsection (h).

9 (m) Each groundwater management area council shall:

10 (1) conduct all meetings in accordance with Chapter
11 551, Government Code;

12 (2) provide notice for each meeting in the manner
13 prescribed by Chapter 551, Government Code, for a district board of
14 directors meeting; and

15 (3) comply with the provisions of Chapter 552,
16 Government Code.

17 (n) A cause of action does not accrue against a groundwater
18 management area council, a representative serving on a groundwater
19 management area council, or an employee of a political subdivision
20 designated under Subsection (i)(4) for an act or omission if the
21 council, representative, or employee committed the act or omission
22 while acting in good faith and in the course and scope of the
23 council's, representative's, or employee's work related to the
24 groundwater management area council.

25 (o) A groundwater management area council, a representative
26 serving on a groundwater management area council, or an employee of
27 a political subdivision designated under Subsection (i)(4) is not

1 liable for damages arising from an act or omission if the council,
2 representative, or employee committed the act or omission while
3 acting in good faith and in the course and scope of the council's,
4 representative's, or employee's work related to the groundwater
5 management area council.

6 (p) On request, the attorney general shall represent a
7 groundwater management area council, a representative serving on a
8 groundwater management area council, or an employee of a political
9 subdivision designated under Subsection (i)(4) in a suit arising
10 from an act or omission relating to the groundwater management area
11 council.

12 (q) A person with a legally defined interest in the
13 groundwater in the groundwater management area, a district in or
14 adjacent to the groundwater management area, or a regional water
15 planning group for a region in the groundwater management area may
16 file a petition with the development board appealing the approval
17 of the groundwater management area plan. The petition must provide
18 evidence that:

19 (1) the groundwater management area plan does not
20 establish a reasonable desired future condition of the groundwater
21 resources in the groundwater management area;

22 (2) the management area plan does not establish
23 reasonable groundwater availability for the district; or

24 (3) the groundwater in the groundwater management area
25 will not be adequately protected.

26 (r) The development board shall review the petition and any
27 evidence relevant to the petition. The development board shall

1 hold at least one hearing at a central location in the management
2 area to take testimony on the petition. The development board may
3 delegate responsibility for a hearing to the executive
4 administrator or to a person designated by the executive
5 administrator. If the development board finds that the groundwater
6 management area plan requires revision, the development board shall
7 submit a report to the groundwater management area council that
8 includes a list of findings and recommended revisions to the
9 groundwater management area plan.

10 (s) The groundwater management area council shall prepare a
11 revised plan in accordance with development board recommendations
12 and hold, after notice, at least one public hearing at a central
13 location in the groundwater management area. After consideration
14 of all public and development board comments, the council shall
15 revise the plan and submit the plan to the development board for
16 review [~~If two or more districts are located within the boundaries~~
17 ~~of the same management area, each district shall prepare a~~
18 ~~comprehensive management plan as required by Section 36.1071~~
19 ~~covering that district's respective territory. On completion and~~
20 ~~certification of the plan as required by Section 36.1072, each~~
21 ~~district shall forward a copy of the new or revised management plan~~
22 ~~to the other districts in the management area. The boards of the~~
23 ~~districts shall consider the plans individually and shall compare~~
24 ~~them to other management plans then in force in the management area.~~

25 [~~(b) The board of directors of each district in the~~
26 ~~management area may, by resolution, call for joint planning with~~
27 ~~the other districts in the management area to review the management~~

1 ~~plans and accomplishments for the management area. In reviewing~~
2 ~~the management plans, the boards shall consider:~~

3 ~~[(1) the goals of each management plan and its impact~~
4 ~~on planning throughout the management area;~~

5 ~~[(2) the effectiveness of the measures established by~~
6 ~~each management plan for conserving and protecting groundwater and~~
7 ~~preventing waste, and the effectiveness of these measures in the~~
8 ~~management area generally; and~~

9 ~~[(3) any other matters that the boards consider~~
10 ~~relevant to the protection and conservation of groundwater and the~~
11 ~~prevention of waste in the management area.~~

12 ~~[(c) If a joint meeting of the boards of directors is~~
13 ~~called, the meeting must be held in accordance with Chapter 551,~~
14 ~~Government Code. Notice of the meeting shall be given in accordance~~
15 ~~with the requirements for notice of district board of directors~~
16 ~~meetings under that Act].~~

17 Sec. 36.1081. PETITION AGAINST DISTRICT. (a) At least
18 every five years a groundwater ~~[(d) A district in the]~~ management
19 area council shall review the management plan and the performance
20 of each district in the groundwater management area. A district or
21 a groundwater management area council for good cause may file ~~[with~~
22 ~~good cause]~~ a petition with the commission requesting an inquiry if
23 ~~[the petitioner district adopted a resolution calling for joint~~
24 ~~planning and the other district or districts refused to join in the~~
25 ~~planning process or the process failed to result in adequate~~
26 ~~planning, and the petition provides evidence that]:~~

27 (1) a ~~[another]~~ district in the groundwater management

1 area has failed to submit its management plan to the executive
2 administrator and the groundwater management area council [~~adopt~~
3 ~~rules~~];

4 (2) a district in the groundwater management area has
5 failed to adopt or make reasonable progress toward adopting rules;

6 (3) the rules adopted by a district are not designed to
7 achieve the desired future condition of the groundwater resources
8 in the groundwater management area established by the groundwater
9 management area plan [~~the groundwater in the management area is not~~
10 ~~adequately protected by the rules adopted by another district~~]; or

11 (4) [~~3~~] the groundwater in the groundwater
12 management area is not adequately protected due to the failure of a
13 [~~another~~] district to enforce substantial compliance with its
14 rules.

15 (b) [~~e~~] Not later than the 90th day after the date the
16 petition is filed, the commission shall review the petition and
17 either:

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

21 (2) select a review panel as provided in Subsection
22 (c) [~~f~~].

23 (c) [~~f~~] If the petition is not dismissed under Subsection
24 (b) [~~e~~], the commission shall appoint a review panel consisting
25 of a chairman and four other members. A director or general manager
26 of a district located outside the groundwater management area that
27 is the subject of the petition may be appointed to the review panel.

1 The commission may not appoint more than two members of the review
2 panel from any one district. The commission also shall appoint a
3 disinterested person to serve as a nonvoting recording secretary
4 for the review panel. The recording secretary may be an employee of
5 the commission. The recording secretary shall record and document
6 the proceedings of the panel.

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

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

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

18 (2) a list of findings and recommended actions
19 appropriate for the commission to take and the reasons it finds
20 those actions appropriate; and

21 (3) any other information the panel considers
22 appropriate.

23 (f) [~~(i)~~] The review panel shall submit its report to the
24 commission. The commission may take action under Section 36.3011.

25 Sec. 36.1082. DISTRICT COOPERATION. [~~(j)~~] Districts
26 located within the same groundwater management areas or in adjacent
27 management areas may contract to jointly conduct studies or

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

13 SECTION 2.41. Section 36.113, Water Code, is amended by
14 amending Subsections (a), (c), (e), and (f) and adding Subsections
15 (h) through (l) to read as follows:

16 (a) A district shall require permits for [~~the~~] drilling,
17 equipping, [~~or~~] completing, or operating [~~of~~] wells or for
18 substantially altering the size of wells or well pumps.

19 (c) A district may require that the following be included in
20 the permit application:

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

23 (2) if the applicant is other than the owner of the
24 property, documentation establishing the applicable authority to
25 construct and operate a well for the proposed purpose of use;

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

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

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

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

8 (7) a drought contingency plan.

9 (e) The district may impose more restrictive permit
10 conditions on new permit applications and increased use by historic
11 or existing users if the limitations:

12 (1) apply to all subsequent new permit applications
13 and increased use by historic or existing users, regardless of type
14 or location of use;

15 (2) bear a reasonable relationship to the existing
16 district management plan; and

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

18 (f) Permits may be issued subject to the rules promulgated
19 by the district and subject to terms and provisions with reference
20 to the drilling, equipping, completion, operating, or alteration of
21 wells or pumps that may be necessary to prevent waste and achieve
22 water conservation, minimize as far as practicable the drawdown of
23 the water table or the reduction of artesian pressure, lessen
24 interference between wells, or control and prevent subsidence.

25 (h) A district shall provide that a change in the purpose
26 and place of use under a permit that was granted for historic or
27 existing use may not be made without a permit amendment. The

1 district shall grant a permit amendment changing the purpose and
2 place of use on application of the holder of a permit that was
3 granted for historic or existing use, and the rules that apply to
4 the operation of a well under any other permit issued by the
5 district not based on historic or existing use apply to the
6 operation of the well under the amended permit.

7 (i) A district that authorizes a permit for historic or
8 existing use shall issue that type of permit based on evidence of
9 the maximum amount of water beneficially used without waste during
10 any one year before the district was created, or before the rules of
11 the district were adopted or notice of such proposed rules was
12 published and only for the purpose and amount beneficially used
13 without waste in that year.

14 (j) In issuing a permit for an existing or historic use, a
15 district may not discriminate between land that is irrigated for
16 production and land or wells on land that was irrigated for
17 production and enrolled or participating in a federal conservation
18 program.

19 (k) A permitting decision by a district is void if:

20 (1) the district makes its decision in violation of
21 Subsection (j); and

22 (2) the district would have reached a different
23 decision if the district had treated land or wells on land enrolled
24 or participating in a federal conservation program the same as land
25 irrigated for production.

26 (l) On the application of an affected owner of land or the
27 owner's lessee or assigns, the district shall reconsider a decision

1 that is void under Subsection (k) and base its decision on the equal
2 treatment of land or wells on land enrolled or participating in a
3 federal conservation program and land that is irrigated for
4 production. Not later than the 90th day after the date the district
5 receives an application under this subsection, the district shall
6 render its decision and notify the applicant of its decision.

7 SECTION 2.42. Subchapter D, Chapter 36, Water Code, is
8 amended by adding Section 36.1152 to read as follows:

9 Sec. 36.1152. PERMITS BASED ON MANAGED AVAILABLE
10 GROUNDWATER. (a) Except as provided by Subsection (b), a
11 district, to the extent possible, shall issue permits up to the
12 point that the total volume of groundwater permitted equals the
13 managed available groundwater, if administratively complete permit
14 applications are submitted to the district.

15 (b) If a district proposes, based on sound science, to limit
16 the volume of groundwater permitted to less than the managed
17 available groundwater, the district must obtain the approval of the
18 groundwater management area council. Prior to acting on the
19 request, the groundwater management area council shall obtain and
20 consider the executive administrator's technical review and
21 analysis of the science on which the request is based.

22 (c) The groundwater management area council:

23 (1) shall approve a district's proposed limit under
24 Subsection (b) if the total reduction from the managed available
25 groundwater does not exceed 12.5 percent; and

26 (2) may approve a limit resulting in a reduction
27 greater than 12.5 percent.

1 SECTION 2.43. Subsections (a) and (b), Section 36.116,
2 Water Code, are amended to read as follows:

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

8 (1) the spacing of water wells by:

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

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

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

17 (2) the production of groundwater by:

18 (A) setting production limits on wells;

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

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

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

27 (E) managed depletion; or

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

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

9 SECTION 2.44. Subchapter D, Chapter 36, Water Code, is
10 amended by adding Section 36.125 to read as follows:

11 Sec. 36.125. APPEAL OF DISTRICT ACTION TO DISPUTE
12 RESOLUTION PANEL. (a) If a dispute arises between a district and
13 a person affected by an action taken by the district under this
14 subchapter, either the district or the affected person may file a
15 petition with the commission requesting the appointment of a
16 dispute resolution panel to assist the parties in reaching a
17 resolution of the dispute. Any party may within 10 days of the
18 filing of the petition submit to the commission a written objection
19 to the appointment of a panel.

20 (b) A petition filed under this section must include:

21 (1) the name of and contact information for each
22 party;

23 (2) a brief summary of the dispute along with a copy of
24 any relevant document, including a permit, an application, a
25 timeline, the district's enabling statute, a rule, a groundwater
26 management plan, or the groundwater management area plan; and

27 (3) other information required by the commission.

1 (c) Not later than the 60th day after the date the petition
2 is filed, the commission shall review the petition and:

3 (1) dismiss it if the commission finds that the
4 petition is baseless, is frivolous, or fails to present an issue
5 that is appropriate for panel review or finds that there is
6 reasonable basis for the objection filed under Subsection (a); or

7 (2) select a panel as provided by Subsection (e).

8 (d) If the petition is dismissed, the commission shall
9 provide the reasons for the dismissal in writing to the district and
10 the affected person.

11 (e) If the petition is not dismissed, the commission shall,
12 in accordance with an interagency contract, request the Center for
13 Public Policy Dispute Resolution to select a three-member dispute
14 resolution panel. The panel shall be selected within 30 days of the
15 commission's request. All panel members must be individuals who
16 are not involved in or affected by the matter in dispute and whose
17 expertise and knowledge may be useful in resolving the dispute. The
18 chair of the panel must also be an impartial third party, have
19 expertise and classroom training in resolving public policy
20 disputes, and have knowledge of groundwater law in Texas. The panel
21 members' costs shall be shared equally among the parties, unless
22 agreed to otherwise. The commission shall compensate the Center
23 for its costs related to this subsection.

24 (f) Not later than the 45th day after the date the panel is
25 selected, the panel shall review the petition and any information
26 relevant to the petition and begin holding meetings with the
27 parties to assist them in resolving the dispute. The panel may

1 consolidate multiple parties, appoint a person to represent
2 multiple parties, invite additional parties, or dismiss parties as
3 the panel considers appropriate. The Texas Water Development Board
4 and the commission shall provide technical and legal assistance as
5 requested by the panel.

6 (g) Not later than the 90th day after the panel's first
7 meeting with the parties, the panel shall report to the commission
8 whether the parties have reached a settlement. If no settlement has
9 been reached, the commission shall dissolve the panel and the
10 parties may proceed with any other available remedy, including
11 those provided under Subchapter H.

12 (h) A court of this state shall take judicial notice of a
13 dispute resolution panel under this section and may stay an
14 affected judicial proceeding pending a settlement of the dispute or
15 the dissolution of the panel.

16 SECTION 2.45. Section 36.301, Water Code, is amended to
17 read as follows:

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

25 SECTION 2.46. Section 36.3011, Water Code, is amended to
26 read as follows:

27 Sec. 36.3011. FAILURE OF [A] DISTRICT TO COMPLY WITH

1 GROUNDWATER MANAGEMENT AREA PLAN [~~CONDUCT JOINT PLANNING~~].

2 [~~(a) If the board of a district within a common management area~~
3 ~~fails to forward a copy of its new or revised certified management~~
4 ~~plan under Section 36.108, the commission shall take appropriate~~
5 ~~action under Section 36.303.~~

6 ~~[(b)]~~ Not later than the 45th day after receiving the review
7 panel's report under Section 36.1081 [~~36.108~~], the executive
8 director or the commission shall take action to implement any or all
9 of the panel's recommendations. The commission may take any action
10 against a district it considers necessary in accordance with
11 Section 36.303 if [~~If~~] the commission finds that:

12 (1) a district [~~in the joint planning area~~] has failed
13 to submit its plan to the executive administrator and the
14 groundwater management area council;

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

16 (3) the rules adopted by the district are not designed
17 to achieve the desired future condition of the groundwater
18 resources in the groundwater management area established under the
19 groundwater management area plan; or

20 (4) the district fails [~~, the groundwater in the~~
21 ~~management area is not adequately protected by the rules adopted by~~
22 ~~the district, or the groundwater in the management area is not~~
23 ~~adequately protected because of the district's failure]~~ to enforce
24 substantial compliance with its rules [~~, the commission may take any~~
25 ~~action it considers necessary in accordance with Section 36.303]~~.

26 SECTION 2.47. Subsection (d), Section 36.302, Water Code,
27 is amended to read as follows:

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

8 SECTION 2.48. Subsection (a), Section 36.303, Water Code,
9 is amended to read as follows:

10 (a) If Section 36.1081 [~~36.108~~], 36.301, or 36.3011 [~~or~~
11 ~~36.302(f)~~] applies, the commission, after notice and hearing in
12 accordance with Chapter 2001, Government Code, shall take action
13 the commission considers appropriate, including:

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

16 (2) dissolving the board in accordance with Sections
17 36.305 and 36.307 and calling an election for the purpose of
18 electing a new board;

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

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

24 SECTION 2.49. Subsection (a), Section 36.304, Water Code,
25 is amended to read as follows:

26 (a) The commission may dissolve a district that[+]

27 [~~(1) is not operational, as determined under Section~~

1 ~~36.302, and~~

2 [~~2~~] has no outstanding bonded indebtedness.

3 SECTION 2.50. Subsection (b), Section 212.0101, Local
4 Government Code, is amended to read as follows:

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

9 SECTION 2.51. Subsection (b), Section 232.0032, Local
10 Government Code, is amended to read as follows:

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

15 SECTION 2.52. Section 9.017, Water Code, is repealed.

16 SECTION 2.53. (a) The executive administrator of the Texas
17 Water Development Board shall conduct a study to determine the
18 effects, if any, of take-or-pay contracts on efforts to conserve
19 water.

20 (b) Not later than January 1, 2007, the executive
21 administrator of the Texas Water Development Board shall submit a
22 report to the legislature that includes:

23 (1) a summary of the findings made during the course of
24 the study; and

25 (2) recommendations for legislative action based on
26 those findings.

27 (c) This section expires September 1, 2007.

1 SECTION 2.54. Subsection (b), Section 11.173, Water Code,
2 as amended by this article, applies to a cancellation proceeding
3 that is pending on the effective date of this Act or is initiated on
4 or after the effective date of this Act.

5 SECTION 2.55. Subsection (b), Section 15.102, Water Code,
6 as amended by this article, and Subsection (b-2), Section 17.125,
7 Water Code, as added by this article, apply only to an application
8 for financial assistance filed with the Texas Water Development
9 Board on or after the effective date of this Act. An application
10 for financial assistance filed before the effective date of this
11 Act is governed by the law in effect on the date the application was
12 filed, and the former law is continued in effect for that purpose.

13 SECTION 2.56. (a) Not later than December 1, 2005:

14 (1) the Texas Water Development Board shall adopt
15 rules under Subchapter L, Chapter 16, Water Code, as added by this
16 article; and

17 (2) the executive administrator of the Texas Water
18 Development Board shall be prepared to accept applications
19 submitted under Section 16.453, Water Code, as added by this
20 article.

21 (b) A person is not required to be registered under Section
22 16.452, Water Code, as added by this article, until March 1, 2006.

23 (c) Section 16.455, Water Code, as added by this article,
24 applies only to a sale, lease, or agreement entered into on or after
25 March 1, 2006.

26 SECTION 2.57. Not later than the 90th day after the
27 effective date of this Act, a groundwater conservation district

1 shall amend to bring into compliance with Section 36.002, Water
2 Code, as amended by this article, any rule adopted before the
3 effective date of this Act.

4 SECTION 2.58. (a) The executive administrator of the Texas
5 Water Development Board shall appoint the initial appointed
6 representatives for each groundwater management area council as
7 provided by Section 36.108, Water Code, as amended by this article,
8 as soon as practicable on or after the effective date of this Act.
9 The terms of the initial representatives for each groundwater
10 management area council expire August 31, 2007.

11 (b) The Texas Water Development Board shall convene the
12 groundwater management area councils required under Section
13 36.108, Water Code, as amended by this article, not later than
14 September 1, 2006.

15 (c) The Texas Commission on Environmental Quality and the
16 Texas Water Development Board shall adopt any rules, models, and
17 forms necessary for the implementation of the groundwater
18 management area planning functions required by this article not
19 later than September 1, 2006.

20 SECTION 2.59. (a) Except in any district expanded by
21 Section 20, Chapter 200, Acts of the 78th Legislature, Regular
22 Session, 2003, the changes in law made under Subsections (h) and
23 (i), Section 36.113, and Subsection (b), Section 36.116, Water
24 Code, as amended by this article, do not apply to:

25 (1) an application or permit issued on the basis of an
26 application filed before March 1, 2005;

27 (2) a renewal or amendment of a permit issued on the

1 basis of an application filed before March 1, 2005;

2 (3) a permit issued under rules in effect as of March
3 1, 2005; or

4 (4) a renewal or amendment to a permit issued under
5 rules in effect as of March 1, 2005.

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

14 ARTICLE 3. FINANCING OF WATER PROJECTS

15 SECTION 3.01. Chapter 13, Water Code, is amended by adding
16 Subchapter O to read as follows:

17 SUBCHAPTER O. WATER CONSERVATION AND DEVELOPMENT FEE

18 Sec. 13.551. DEFINITIONS. In this subchapter:

19 (1) "Agricultural use" has the meaning assigned by
20 Section 11.002.

21 (2) "Customer" means a person who is provided potable
22 or nonpotable water for a charge or as an incident of tenancy. In
23 the context of a landlord-tenant relationship, the term means the
24 landlord unless the tenant is billed directly by the provider.

25 (3) "Provider" means a person who provides for
26 compensation potable or nonpotable water.

27 Sec. 13.552. LIMITATION ON APPLICABILITY. This subchapter

1 does not apply to:

2 (1) the wholesale provision of water; or

3 (2) the provision of water for agricultural use.

4 Sec. 13.553. WATER CONSERVATION AND DEVELOPMENT FEE.

5 (a) Each provider shall collect from each customer a water
6 conservation and development fee as provided by this subchapter.

7 (b) The provider shall collect the fee on behalf of this
8 state.

9 (c) The fee is not considered to be revenue of the provider,
10 with the exception of the portion of the fee retained under Section
11 13.556(b).

12 Sec. 13.554. POLICY REGARDING FINANCING OF WATER
13 INFRASTRUCTURE, CREATION OF LEGISLATIVE OVERSIGHT COMMITTEE.

14 (a) In recognition of the importance of providing for the state's
15 future water supply and infrastructure needs, the legislature makes
16 the following findings:

17 (1) Senate Bill No. 1, 75th Legislature, Regular
18 Session, 1997, made significant advances in planning for the
19 state's future water supply needs through the state and regional
20 water supply planning processes and no comprehensive coordinated
21 investment has been made in water resource needs identified in
22 Senate Bill No. 1;

23 (2) Senate Bill No. 2, 77th Legislature, Regular
24 Session, 2001, provided appropriate mechanism to fund future water
25 supply projects identified in the State Water Plan through the
26 water infrastructure fund;

27 (3) Senate Bill No. 3, 79th Legislature, Regular

1 Session, 2005:

2 (A) provides for ensuring the state's
3 environmental flow needs through an adaptive management process;

4 (B) provides for determination of actual costing
5 of projects in recognition of the expedited regional water planning
6 process;

7 (C) provides a framework for consistent
8 groundwater management over groundwater management areas;

9 (D) drives decision-making, sound science, and
10 consistent management at the state, regional, and local levels; and

11 (E) implements water transaction reporting
12 requirements;

13 (4) the state's population is projected to double in
14 the next 35 years; and

15 (5) many areas of the state have lacked the resources
16 to make investments since the enactment of Senate Bill No. 1 and
17 Senate Bill No. 2 to address their water supply needs.

18 (b) To establish a fair and reasonable funding mechanism, a
19 legislative oversight committee is created to:

20 (1) ensure funding is available to provide for
21 adequate water supply for the future of Texas;

22 (2) provide a revenue-generating mechanism that is
23 derived from data evaluation and analysis of equitable fee
24 structures and reporting mechanisms;

25 (3) evaluate public policy implications for assessing
26 the water conservation and development fee; and

27 (4) provide a source of dedicated funds for water

1 infrastructure needs for the next 50 years.

2 (c) In recognition of the importance of providing for the
3 state's water infrastructure, and of the need to structure a fair
4 and reasonable funding mechanism that will fund such
5 infrastructure, there is created the Legislative Oversight
6 Committee on Water Financing.

7 (d) The oversight committee is composed of 10 members of the
8 legislature as follows:

9 (1) five members of the senate appointed by the
10 lieutenant governor, one of whom shall be the chair of the Senate
11 Natural Resources Committee; and

12 (2) five members of the house of representatives
13 appointed by the speaker of the house of representatives, one of
14 whom shall be the chair of the House Natural Resources Committee.

15 (e) The position of presiding officer of the oversight
16 committee shall alternate annually between the chair of the Senate
17 Natural Resources Committee and the chair of the House Natural
18 Resources Committee. The chair of the Senate Natural Resources
19 Committee shall serve as the first presiding officer, with a term
20 beginning on September 1, 2005.

21 (f) Other than the chairs of the senate and house natural
22 resources committees, members serve at the will of the person who
23 appointed each member.

24 (g) The board shall provide staff support for the oversight
25 committee. The executive administrator of the board shall compile
26 and analyze for the committee's use information received by the
27 board regarding water use throughout the state, water

1 infrastructure needs throughout the state, the adequacy of current
2 funding for such infrastructure needs, and gaps in the ability to
3 fund such infrastructure.

4 (h) The oversight committee shall conduct public hearings
5 and study public policy implications for assessing the water
6 conservation and development fee as a source of dedicated funds for
7 water infrastructure development. Specifically, the oversight
8 committee shall determine how to establish and implement the fee
9 described in this subchapter, including recommendations on:

10 (1) constitutional dedication of revenues in the water
11 infrastructure fund;

12 (2) the amount of the fee and the impact of the fee on
13 all water users;

14 (3) the uses upon which the fee shall be assessed;

15 (4) any appropriate reservations of the fee; and

16 (5) any proposed changes to this subchapter.

17 (i) The oversight committee may appoint technical
18 subcommittees, which may include persons other than the members of
19 the oversight committee. The oversight committee shall appoint a
20 technical advisory subcommittee composed of financial advisors and
21 bond counsel.

22 (j) The oversight committee shall provide a report on or
23 before August 31, 2006, to the governor, lieutenant governor, and
24 speaker of the house of representatives addressing the topics
25 included in Subsection (h) and recommending any needed legislation.

26 (k) The fee established by this subchapter shall not be
27 assessed until the legislature has established the appropriate rate

1 and conditions of its imposition.

2 (l) The oversight committee shall adopt rules to administer
3 this section.

4 (m) The oversight committee is abolished and this section
5 expires September 1, 2009.

6 Sec. 13.555. EXEMPTIONS. (a) The first 5,000 gallons of
7 water sold to a customer each month is exempt from the fee if the
8 customer is a resident of a single-family dwelling or multifamily
9 dwelling unit.

10 (b) The first 5,000 gallons of water sold for each
11 multifamily dwelling unit to a customer each month is exempt from
12 the fee if the customer is the owner or manager of a multifamily
13 dwelling complex.

14 (c) The exemptions provided by Subsections (a) and (b) apply
15 without regard to:

16 (1) whether the provision of water is bundled with
17 another service; or

18 (2) the billing period used by the provider.

19 (d) An entity described by Section 151.309 or 151.310, Tax
20 Code, is exempt from the fee imposed by this subchapter.

21 Sec. 13.556. PAYMENT OF FEE. (a) On or before the fifth
22 day of the month following the end of each calendar month, each
23 provider shall send to the comptroller the amount of the fee the
24 provider collected under this subchapter during the preceding
25 calendar month.

26 (b) A provider that makes timely payment of the fee imposed
27 under this subchapter is entitled to retain an amount equal to

1 one-half of one percent of the amount of the fee collected as
2 reimbursement for the costs of collecting the fee for that month.

3 Sec. 13.557. REPORTS. On or before the fifth day of the
4 month following the end of each calendar month, each provider shall
5 file with the comptroller a report made under guidelines
6 established by the comptroller stating:

7 (1) the number of gallons of water sold during the
8 preceding calendar month;

9 (2) the number of gallons of water sold during the
10 preceding calendar month on which the fee was imposed; and

11 (3) any other information required by the comptroller.

12 Sec. 13.558. RECORDS. A provider shall keep a complete
13 record under guidelines established by the comptroller of:

14 (1) the number of gallons of water sold during the
15 preceding calendar month;

16 (2) the number of gallons of water sold during the
17 preceding calendar month on which the fee was imposed; and

18 (3) any other information required by the comptroller.

19 Sec. 13.559. DEDICATION OF REVENUE. The revenue from the
20 fee imposed by this subchapter is dedicated to and shall be
21 deposited to the credit of the water infrastructure fund and may be
22 used only as provided by Subchapter Q, Chapter 15. Should bonds or
23 other obligations be outstanding that are secured by or payable
24 from balances initially deposited to the credit of the water
25 infrastructure fund, including the dedication of the fees as
26 provided by this section, any balance in the water infrastructure
27 fund and the dedication of the fees provided by this section may not

1 be reduced, rescinded, or repealed unless the legislature by law
2 dedicates to the water infrastructure fund a substitute or
3 different source that is projected by the comptroller to produce an
4 amount no less than the amount produced by the source being reduced,
5 rescinded, or repealed.

6 Sec. 13.560. AUDITS AND ENFORCEMENT. (a) The comptroller
7 may audit the records of any provider required to collect and remit
8 to the comptroller the fee imposed by this subchapter to ensure that
9 the fee is being properly collected and remitted to the comptroller
10 and as otherwise necessary to ensure compliance with this
11 subchapter.

12 (b) The comptroller shall take appropriate action against a
13 provider who does not collect and remit to the comptroller the fee
14 as required by this subchapter.

15 SECTION 3.02. Subsection (a), Section 15.407, Water Code,
16 is amended to read as follows:

17 (a) In this section, "economically distressed area" and
18 "political subdivision" have the meanings assigned by Section
19 17.941 [~~16.341 of this code~~].

20 SECTION 3.03. Section 15.971, Water Code, is amended by
21 adding Subdivision (6) to read as follows:

22 (6) "Provider" means a person who provides for
23 compensation potable or nonpotable water and who collects and
24 remits fees pursuant to Subchapter O, Chapter 13.

25 SECTION 3.04. Section 15.973, Water Code, is amended to
26 read as follows:

27 Sec. 15.973. WATER INFRASTRUCTURE FUND. (a) The water

1 infrastructure fund is a special fund in the state treasury to be
2 administered by the board under this subchapter and rules adopted
3 by the board under this subchapter. Money in the fund may be used to
4 pay for the implementation of water projects recommended through
5 the state and regional water planning processes under Sections
6 16.051 and 16.053 and for other uses authorized by this subchapter.

7 (b) The fund consists of:

8 (1) appropriations from the legislature;

9 (2) any other fees or sources of revenue that the
10 legislature may dedicate for deposit to the fund;

11 (3) repayments of loans made from the fund;

12 (4) interest earned on money credited to the fund;

13 (5) depository interest allocable to the fund;

14 (6) money from gifts, grants, or donations to the
15 fund;

16 (7) money from revenue bonds or other sources
17 designated by the board; ~~and~~

18 (8) proceeds from the sale of political subdivision
19 bonds or obligations held in the fund and not otherwise pledged to
20 the discharge, repayment, or redemption of revenue bonds or other
21 bonds, the proceeds of which were placed in the fund;

22 (9) the proceeds from the collection of the fee
23 imposed under Subchapter O, Chapter 13;

24 (10) money paid to the board under Section 16.402; and

25 (11) fees and penalties collected under Subchapter L,
26 Chapter 16.

27 SECTION 3.05. Section 15.974, Water Code, is amended by

1 amending Subsection (a) and adding Subsections (d) and (e) to read
2 as follows:

3 (a) The board may use the fund:

4 (1) to make loans to political subdivisions at or
5 below market interest rates for projects;

6 (2) to make grants, low-interest loans, or zero
7 interest loans to political subdivisions for projects to serve
8 areas outside metropolitan statistical areas in order to ensure
9 that the projects are implemented, for conjunctive use projects, or
10 for projects to serve economically distressed areas;

11 (3) to make loans at or below market interest rates for
12 planning and design costs, permitting costs, and other costs
13 associated with state or federal regulatory activities with respect
14 to a project;

15 (4) as a source of revenue or security for the payment
16 of principal and interest on bonds issued by the board if the
17 proceeds of the sale of the bonds will be deposited in the fund;
18 [~~and~~]

19 (5) to pay the necessary and reasonable expenses of
20 the board in administering the fund; and

21 (6) to make transfers:

22 (A) to the state participation account and the
23 economically distressed areas program account of the Texas Water
24 Development Fund II authorized by Section 49-d-8, Article
25 III, Texas Constitution, and Subchapter L, Chapter 17, of this
26 code, to be used for the purposes authorized by those provisions,
27 provided that such transfers shall not be used to make debt service

1 or other payments on obligations the proceeds of which are placed
2 into such accounts before September 1, 2005;

3 (B) to the agricultural water conservation fund
4 authorized by Section 50-d, Article III, Texas Constitution, and
5 Subchapter J, Chapter 17, of this code, to be used for the purposes
6 authorized by those provisions, provided that such transfers shall
7 not be used to make debt service or other payments on obligations
8 the proceeds of which are placed into such fund before September 1,
9 2005;

10 (C) to the community/noncommunity water system
11 financial assistance account of the safe drinking water revolving
12 fund under Section 15.6041(b)(1) to be used for purposes authorized
13 from that account;

14 (D) to the water assistance fund authorized by
15 Subchapter B;

16 (E) from revenues collected under Subchapter O,
17 Chapter 13, to the rural water assistance fund authorized by
18 Subchapter R for use pursuant to Section 15.994(c); and

19 (F) from not to exceed eight percent of the
20 revenues collected under Subchapter O, Chapter 13, or from revenue
21 collected under Subchapter L, Chapter 16, during a fiscal biennium
22 to the general revenue fund in amounts not to exceed appropriations
23 of general revenue for operations of the board and for operations of
24 the commission related to the administration of programs relating
25 to water resources and water quality, including the development and
26 implementation of the statewide water conservation public
27 awareness program required by Section 16.401.

1 (d) Twenty-five percent of the fees collected by the
2 comptroller from providers under Subchapter O, Chapter 13, shall be
3 deposited into an account in the fund to be designated as the local
4 contribution account and shall be reserved for each provider
5 proportionate to the fees such provider has remitted to the
6 comptroller under Subchapter O, Chapter 13. Interest earned on
7 money in the local contribution account shall be credited to the
8 account. Within five years of the date of deposit of money into the
9 local contribution account, a provider may apply to the board for
10 designation of the proportion of the fees that it has contributed to
11 the account plus interest earned thereon for uses pursuant to
12 Subsection (e) and for fees that are projected to be contributed to
13 the local contribution account by that provider over the next five
14 years. Money in the local contribution account for which an
15 application is not filed within five years of their deposit shall be
16 transferred to the fund, along with interest earned on such money.
17 Providers may pool their reservations to be used for a regional
18 project and may designate one person to apply for financial
19 assistance for such regional project.

20 (e) The board shall use money in the local contribution
21 account pursuant to an application filed by a provider under
22 Subsection (d) for the purposes listed in this subsection. The
23 board shall not unduly withhold funding to providers and projects
24 which meet eligibility requirements for such assistance, and shall
25 create expedited application procedures and methods to disburse
26 funds from the local contribution account. The local contribution
27 account may be used for the following purposes:

1 (1) to provide assistance directly from the account to
2 political subdivisions for purposes specified in Subsections
3 (a)(1)-(3), provided that grants, low-interest loans, and
4 zero-interest loans under Subsection (a)(2) may be made without
5 regard to whether projects serve areas outside metropolitan
6 statistical areas;

7 (2) to transfer to the state participation account,
8 economically distressed areas program account, agricultural water
9 conservation fund, water assistance fund, or safe drinking water
10 revolving fund as authorized by Subsection (a)(6) for subsequent
11 financial assistance to such provider;

12 (3) to provide money for participation in the
13 statewide water conservation public awareness program under
14 Section 16.401 or for a political subdivision's water conservation
15 public awareness program;

16 (4) to reimburse the provider for the capital cost
17 incurred in, or principal or interest paid on obligations used to
18 finance, the construction of projects:

19 (A) which were identified as a water management
20 strategy in the approved regional water plan adopted in 2001 or any
21 amendments to such regional water plan approved by the board; and

22 (B) the costs of which would be eligible for
23 financial assistance under this section if an application were made
24 after September 1, 2005; and

25 (5) to replace aging water infrastructure to ensure
26 efficient delivery and conservation of water.

27 SECTION 3.06. Section 17.172, Water Code, is amended to

1 read as follows:

2 Sec. 17.172. APPLICABILITY. This subchapter applies to
3 financial assistance made available from the water supply account,
4 the water quality enhancement account, the flood control account,
5 [~~and~~] the economically distressed areas account, and the
6 economically distressed areas program account under Subchapters D,
7 F, G, [~~and~~] K, and K-1 of this chapter.

8 SECTION 3.07. Chapter 17, Water Code, is amended by adding
9 Subchapter K-1 to read as follows:

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

12 Sec. 17.941. DEFINITIONS. In this subchapter:

13 (1) "Economically distressed area" means an area in
14 this state in which:

15 (A) water supply or sewer services are inadequate
16 to meet minimal needs of residential users as defined by board rule;

17 (B) financial resources are inadequate to
18 provide water supply and sewer services that will satisfy those
19 needs; and

20 (C) an established residential subdivision was
21 located on June 1, 2005, as determined by the board.

22 (2) "Financial assistance" means the funds provided by
23 the board to political subdivisions for water supply or sewer
24 services under this subchapter.

25 (3) "Political subdivision" means a county, a
26 municipality, a nonprofit water supply corporation created and
27 operating under Chapter 67, or a district or authority created

1 under Section 52, Article III, or Section 59, Article XVI, Texas
2 Constitution.

3 (4) "Sewer services" and "sewer facilities" mean
4 treatment works or individual, on-site, or cluster treatment
5 systems such as septic tanks and include drainage facilities and
6 other improvements for proper functioning of the sewer services and
7 other facilities.

8 Sec. 17.942. FINANCIAL ASSISTANCE. The economically
9 distressed areas program account may be used by the board to provide
10 financial assistance to political subdivisions for the
11 construction, acquisition, or improvement of water supply and sewer
12 services, including providing money from the account for the
13 state's participation in federal programs that provide assistance
14 to political subdivisions. Money from the proceeds of bonds issued
15 under the authority of Sections 49-d-7(b) or 49-d-8, Article III,
16 Texas Constitution, may not be used to provide financial assistance
17 under this subchapter.

18 Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A
19 political subdivision may apply to the board for financial
20 assistance under this subchapter by submitting an application
21 together with a plan for providing water supply or sewer services to
22 an economically distressed area.

23 (b) The application and plan must include:

24 (1) the name of the political subdivision and its
25 principal officers;

26 (2) a citation of the law under which the political
27 subdivision operates and was created;

1 (3) a description of the existing water supply and
2 sewer facilities located in the area to be served by the proposed
3 project and include with the description a statement prepared and
4 certified by an engineer registered to practice in this state that
5 the facilities do not meet minimum state standards;

6 (4) information identifying the median household
7 income for the area to be served by the proposed project;

8 (5) a project plan prepared and certified by an
9 engineer registered to practice in this state that:

10 (A) describes the proposed planning, design, and
11 construction activities necessary for providing water supply and
12 sewer services that meet minimum state standards; and

13 (B) identifies the households to whom the
14 services will be provided;

15 (6) a budget that estimates the total cost of
16 providing water supply and sewer services to the economically
17 distressed area and a proposed schedule and method for repayment of
18 financial assistance consistent with board rules and guidelines;
19 and

20 (7) the total amount of assistance requested from the
21 economically distressed areas program account.

22 (c) A program of water conservation for the more effective
23 use of water is required for approval of an application for
24 financial assistance under this section in the same manner as such a
25 program is required for approval of an application for financial
26 assistance under Section 17.125.

27 (d) Before considering the application, the board may

1 require the applicant to:

2 (1) participate with the board in reviewing the
3 applicant's managerial, financial, or technical capabilities to
4 operate the system for which assistance is being requested;

5 (2) provide a written determination by the commission
6 of the applicant's managerial, financial, and technical
7 capabilities to operate the system for which assistance is being
8 requested;

9 (3) request that the comptroller perform a financial
10 management review of the applicant's current operations and, if the
11 comptroller is available to perform the review, provide the board
12 with the results of the review; or

13 (4) provide any other information required by the
14 board or the executive administrator.

15 Sec. 17.944. CONSIDERATIONS IN PASSING ON APPLICATION.

16 (a) In passing on an application for financial assistance, the
17 board shall consider:

18 (1) the need of the economically distressed area to be
19 served by the water supply or sewer services in relation to the need
20 of other political subdivisions requiring financial assistance
21 under this subchapter and the relative costs and benefits of all
22 applications;

23 (2) the availability of revenue or alternative
24 financial assistance for the area served by the project, from all
25 sources, for the payment of the cost of the proposed project;

26 (3) the financing of the proposed water supply or
27 sewer project, including consideration of:

1 (A) the budget and repayment schedule submitted
2 under Section 17.943(b)(6);

3 (B) other items included in the application
4 relating to financing; and

5 (C) other financial information and data
6 available to the board; and

7 (4) the feasibility of achieving cost savings by
8 providing a regional facility for water supply or wastewater
9 service and the feasibility of financing the project by using money
10 from the economically distressed areas program account or any other
11 available financial assistance.

12 (b) At the time an application for financial assistance is
13 considered, the board also must find that the area to be served by a
14 proposed project has a median household income of not more than 75
15 percent of the median state household income for the most recent
16 year for which statistics are available.

17 Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. After
18 considering the matters described by Section 17.944, the board by
19 resolution shall:

20 (1) approve the plan and application as submitted;

21 (2) approve the plan and application subject to the
22 requirements identified by the board or commission for the
23 applicant to obtain the managerial, financial, and technical
24 capabilities to operate the system and any other requirements,
25 including training under Subchapter M, the board considers
26 appropriate;

27 (3) deny the application and identify the requirements

1 or remedial steps the applicant must complete before the applicant
2 may be reconsidered for financial assistance;

3 (4) if the board finds that the applicant will be
4 unable to obtain the managerial, financial, or technical
5 capabilities to build and operate a system, deny the application
6 and issue a determination that a service provider other than the
7 applicant is necessary or appropriate to undertake the proposed
8 project; or

9 (5) deny the application.

10 Sec. 17.946. FINDINGS REGARDING PERMITS. (a) The board
11 may not release money for the construction of that portion of a
12 project that proposes surface water or groundwater development
13 until the executive administrator makes a written finding:

14 (1) that an applicant proposing surface water
15 development has the necessary water right authorizing it to
16 appropriate and use the water that the water supply project will
17 provide; or

18 (2) that an applicant proposing groundwater
19 development has the right to use water that the water supply project
20 will provide.

21 (b) The board may release money for the costs of planning,
22 engineering, architectural, legal, title, fiscal, or economic
23 investigation, studies, surveys, or designs before making the
24 finding required under Subsection (a) if the executive
25 administrator determines that a reasonable expectation exists that
26 the finding will be made before the release of funds for
27 construction.

1 (c) If an applicant includes a proposal for treatment works,
2 the board may not deliver money for the treatment works until the
3 applicant has received a permit for construction and operation of
4 the treatment works and approval of the plans and specifications
5 from the commission or unless such a permit is not required by the
6 commission.

7 Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) The
8 board may provide financial assistance to political subdivisions
9 under this subchapter by using money in the economically distressed
10 areas program account to purchase political subdivision bonds.

11 (b) The board may make financial assistance available to
12 political subdivisions in any other manner that it considers
13 feasible, including:

14 (1) contracts or agreements with a political
15 subdivision for acceptance of financial assistance that establish
16 any repayment based on the political subdivision's ability to repay
17 the assistance and that establish requirements for acceptance of
18 the assistance; or

19 (2) contracts or agreements for providing financial
20 assistance in any federal or federally assisted project or program.

21 Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) The board
22 may use money in the economically distressed areas program account
23 to provide financial assistance under this subchapter to a
24 political subdivision to be repaid in the form, manner, and time
25 provided by board rules and in the agreement between the board and
26 the political subdivision, taking into consideration the
27 information provided by Section 17.943.

1 (b) In providing financial assistance to an applicant under
2 this subchapter, the board may not provide to the applicant
3 financial assistance for which repayment is not required in an
4 amount that exceeds 50 percent of the total amount of the financial
5 assistance plus interest on any amount that must be repaid, unless
6 the Department of State Health Services issues a finding that a
7 nuisance dangerous to the public health and safety exists resulting
8 from water supply and sanitation problems in the area to be served
9 by the proposed project. The board and the applicant shall provide
10 to the Department of State Health Services information necessary to
11 make a determination, and the board and the Department of State
12 Health Services may enter into memoranda of understanding necessary
13 to carry out this subsection.

14 (c) The total amount of financial assistance provided by the
15 board to political subdivisions under this subchapter from
16 state-issued bonds for which repayment is not required may not
17 exceed at any time 90 percent of the total principal amount of
18 issued and unissued bonds authorized for purposes of this
19 subchapter.

20 (d) In determining the amount and form of financial
21 assistance and the amount and form of repayment, if any, the board
22 shall consider:

23 (1) rates, fees, and charges that the average customer
24 to be served by the project will be able to pay based on a comparison
25 of what other families of similar income who are similarly situated
26 pay for comparable services;

27 (2) sources of funding available to the political

1 subdivision from federal and private money and from other state
2 money;

3 (3) any local money of the political subdivision to be
4 served by the project if the economically distressed area to be
5 served by the board's financial assistance is within the boundary
6 of the political subdivision; and

7 (4) the just, fair, and reasonable charges for water
8 and wastewater service as provided by this code.

9 (e) In making its determination under Subsection (d)(1),
10 the board may consider any study, survey, data, criteria, or
11 standard developed or prepared by any federal, state, or local
12 agency, private foundation, banking or financial institution, or
13 other reliable source of statistical or financial data or
14 information.

15 SECTION 3.08. Subsection (c), Section 17.958, Water Code,
16 is amended to read as follows:

17 (c) Money on deposit in the economically distressed areas
18 program account may be used by the board for purposes provided by
19 Subchapter K or K-1 in the manner that the board determines
20 necessary for the administration of the fund.

21 SECTION 3.09. Subsection (i), Section 15.407 and Subsection
22 (b), Section 15.974, Water Code, are repealed.

23 SECTION 3.10. Section 3.01 of this Act shall not take effect
24 unless and until a future legislature adopts amendments to
25 Subchapter O, Chapter 13, Water Code, to establish a rate for the
26 water conservation and development fee; provided, however, that the
27 provisions of this Act regarding creation and operation of the

1 Legislative Oversight Committee on Water Financing in Section
2 13.554, Water Code, shall be effective on the effective date of this
3 Act.

4 ARTICLE 4. SPECIAL DISTRICT CREATION

5 SECTION 4.01. Subtitle H, Title 6, Special District Local
6 Laws Code, is amended by adding Chapter 8812 to read as follows:

7 CHAPTER 8812. VICTORIA COUNTY GROUNDWATER

8 CONSERVATION DISTRICT

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 8812.001. DEFINITIONS. In this chapter:

11 (1) "Board" means the board of directors of the
12 district.

13 (2) "Director" means a member of the board.

14 (3) "District" means the Victoria County Groundwater
15 Conservation District.

16 Sec. 8812.002. NATURE OF DISTRICT. The district is a
17 groundwater conservation district in Victoria County created under
18 and essential to accomplish the purposes of Section 59, Article
19 XVI, Texas Constitution.

20 Sec. 8812.003. CONFIRMATION ELECTION REQUIRED. If the
21 creation of the district is not confirmed at a confirmation
22 election held before September 1, 2010:

23 (1) the district is dissolved on September 1, 2010,
24 except that:

25 (A) any debts incurred shall be paid;

26 (B) any assets that remain after the payment of
27 debts shall be transferred to Victoria County; and

1 (C) the organization of the district shall be
2 maintained until all debts are paid and remaining assets are
3 transferred; and

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

5 Sec. 8812.004. INITIAL DISTRICT TERRITORY. The initial
6 boundaries of the district are coextensive with the boundaries of
7 Victoria County, Texas.

8 Sec. 8812.005. APPLICABILITY OF OTHER GROUNDWATER
9 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
10 chapter, Chapter 36, Water Code, applies to the district.

11 [Sections 8812.006-8812.020 reserved for expansion]

12 SUBCHAPTER A-1. TEMPORARY PROVISIONS

13 Sec. 8812.021. APPOINTMENT OF TEMPORARY DIRECTORS.

14 (a) Not later than the 10th day after September 1, 2005, the
15 Victoria County Commissioners Court shall appoint five temporary
16 directors as follows:

17 (1) one temporary director shall be appointed from
18 each of the four commissioner precincts in the county to represent
19 the precinct in which the temporary director resides; and

20 (2) one temporary director who resides in the district
21 shall be appointed to represent the district at large.

22 (b) If there is a vacancy on the temporary board of
23 directors of the district, the remaining temporary directors shall
24 select a qualified person to fill the vacancy. If, at any time,
25 there are fewer than three qualified temporary directors, the
26 Victoria County Commissioners Court shall appoint the necessary
27 number of persons to fill all vacancies on the board.

1 (c) To be eligible to serve as a temporary director, a
2 person must be a resident of Victoria County and at least 18 years
3 of age.

4 (d) Temporary directors serve until the earlier of:

5 (1) the time the temporary directors become initial
6 directors as provided by Section 8812.024; or

7 (2) the date this chapter expires under Section
8 8812.003.

9 Sec. 8812.022. ORGANIZATIONAL MEETING OF TEMPORARY
10 DIRECTORS. As soon as practicable after all the temporary
11 directors have qualified under Section 36.055, Water Code, a
12 majority of the temporary directors shall convene the
13 organizational meeting of the district at a location within the
14 district agreeable to a majority of the directors. If an agreement
15 on location cannot be reached, the organizational meeting shall be
16 at the Victoria County Courthouse. At the meeting, the temporary
17 directors shall elect a chair, vice chair, and secretary from among
18 the temporary directors.

19 Sec. 8812.023. CONFIRMATION ELECTION. (a) Not later than
20 the 30th day after September 1, 2005, the temporary board shall
21 order an election to be held not later than the 120th day after
22 September 1, 2005, to confirm the creation of the district.

23 (b) Section 41.001(a), Election Code, does not apply to a
24 confirmation election held as provided by this section.

25 (c) The ballot for the election must be printed to permit
26 voting for or against the following proposition: "The creation of
27 the Victoria County Groundwater Conservation District and the

1 imposition of an ad valorem tax in the district at a rate not to
2 exceed two cents for each \$100 of assessed valuation."

3 (d) The temporary board may include any other proposition on
4 the ballot that it considers necessary.

5 (e) Except as provided by this section, a confirmation
6 election must be conducted as provided by Section 36.017(b)-(i),
7 Water Code, and the Election Code. The provision of Section
8 36.017(d), Water Code, relating to the election of permanent
9 directors does not apply to a confirmation election under this
10 section.

11 (f) If the creation of the district is not confirmed at a
12 confirmation election held under this section, the board may hold
13 another confirmation election not sooner than the first anniversary
14 of the most recent confirmation election.

15 Sec. 8812.024. INITIAL DIRECTORS. (a) If creation of the
16 district is confirmed at an election held under Section 8812.023,
17 the temporary directors of the district become the initial
18 directors of the district and serve on the board of directors until
19 permanent directors are elected under Section 8812.025.

20 (b) The directors for county commissioner precincts one and
21 three serve until the first regularly scheduled election of
22 directors under Section 8812.025. The directors for precincts two
23 and four and the director at large serve until the second regularly
24 scheduled election of directors under Section 8812.025.

25 Sec. 8812.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
26 the uniform election date prescribed by Section 41.001, Election
27 Code, in November of the first even-numbered year after the year in

1 which the creation of the district is confirmed at an election held
2 under Section 8812.023, an election shall be held in the district
3 for the election of two directors to replace the initial directors
4 who, under Section 8812.024(b), serve until that election.

5 Sec. 8812.026. EXPIRATION OF SUBCHAPTER. This subchapter
6 expires September 1, 2013.

7 [Sections 8812.027-8812.050 reserved for expansion]

8 SUBCHAPTER B. BOARD OF DIRECTORS

9 Sec. 8812.051. DIRECTORS; TERMS. (a) The district is
10 governed by a board of five directors.

11 (b) Directors serve staggered four-year terms.

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

16 (b) One director shall be elected by the voters of the
17 entire district, and one director shall be elected from each county
18 commissioners precinct by the voters of that precinct.

19 (c) Except as provided by Subsection (e), to be eligible to
20 be a candidate for or to serve as director at large, a person must be
21 at least 18 years of age and a resident of the district. To be a
22 candidate for or to serve as director from a county commissioners
23 precinct, a person must be at least 18 years of age and a resident of
24 that precinct.

25 (d) A person shall indicate on the application for a place
26 on the ballot:

27 (1) the precinct that the person seeks to represent;

1 or

2 (2) that the person seeks to represent the district at
3 large.

4 (e) When the boundaries of the county commissioners
5 precincts are redrawn after each federal decennial census to
6 reflect population changes, a director in office on the effective
7 date of the change, or a director elected or appointed before the
8 effective date of the change whose term of office begins on or after
9 the effective date of the change, shall serve in the precinct to
10 which elected or appointed even though the change in boundaries
11 places the person's residence outside the precinct for which the
12 person was elected or appointed.

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

17 Sec. 8812.054. VACANCIES. A vacancy on the board shall be
18 filled by appointment of the board until the next regularly
19 scheduled directors' election. The person appointed to fill the
20 vacancy shall serve only for the remainder of the unexpired term.

21 [Sections 8812.055-8812.100 reserved for expansion]

22 SUBCHAPTER C. POWERS AND DUTIES

23 Sec. 8812.101. PROHIBITION ON DISTRICT USE OF EMINENT
24 DOMAIN. The district may not exercise the power of eminent domain.

25 [Sections 8812.102-8812.150 reserved for expansion]

26 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

27 Sec. 8812.151. LIMITATION ON TAXES. The district may not

1 impose ad valorem taxes at a rate that exceeds two cents on each
2 \$100 of assessed valuation of taxable property in the district.

3 SECTION 4.02. Chapter 1332, Acts of the 77th Legislature,
4 Regular Session, 2001, is repealed.

5 SECTION 4.03. (a) The legal notice of the intention to
6 introduce this article, setting forth the general substance of this
7 article, has been published as provided by law, and the notice and a
8 copy of the substance of this article have been furnished to all
9 persons, agencies, officials, or entities to which they are
10 required to be furnished under Section 59, Article XVI, Texas
11 Constitution, and Chapter 313, Government Code.

12 (b) The governor has submitted the notice and substance of
13 this article to the Texas Commission on Environmental Quality.

14 (c) The Texas Commission on Environmental Quality has filed
15 its recommendations relating to the substance of this article with
16 the governor, lieutenant governor, and speaker of the house of
17 representatives within the required time.

18 (d) All requirements of the constitution and laws of this
19 state and the rules and procedures of the legislature with respect
20 to the notice, introduction, and passage of this article are
21 fulfilled and accomplished.

22 ARTICLE 5. EDWARDS AQUIFER AUTHORITY

23 SECTION 5.01. Subsection (f), Section 1.11, Chapter 626,
24 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
25 read as follows:

26 (f) The authority may own, finance, design, [~~contract with a~~
27 ~~person who uses water from the aquifer for the authority or that~~

1 ~~person to~~ construct, operate, or ~~[own, finance, and]~~ maintain
2 recharge [water supply] facilities or contract with a person who
3 uses water from the aquifer for the authority or that person to own,
4 finance, design, construct, operate or maintain recharge
5 facilities. ~~[Management fees or special fees may not be used for~~
6 ~~purchasing or operating these facilities.]~~ For the purpose of this
7 subsection, "recharge [water supply] facility" means ~~[includes]~~ a
8 dam, reservoir, ~~[treatment facility, transmission facility,]~~ or
9 other method of recharge project and associated facilities,
10 structures, or works.

11 SECTION 5.02. Subsections (a), (c), (f), and (h), Section
12 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session,
13 1993, are amended to read as follows:

14 (a) Authorizations to withdraw water from the aquifer and
15 all authorizations and rights to make a withdrawal under this Act
16 shall be limited in accordance with this section to:

- 17 (1) protect the water quality of the aquifer;
- 18 (2) protect the water quality of the surface streams
19 to which the aquifer provides springflow;
- 20 (3) achieve water conservation;
- 21 (4) maximize the beneficial use of water available for
22 withdrawal from the aquifer;
- 23 (5) recognize the hydro-geologic connection and
24 interaction between surface and groundwater;
- 25 (6) protect aquatic and wildlife habitat;
- 26 (7) ~~(6)~~ protect species that are designated as
27 threatened or endangered under applicable federal or state law; and

1 (8) [~~(7)~~] provide for instream uses, bays, and
2 estuaries.

3 (c) Except as provided by Subsections [~~(d)~~, ~~7~~] (f) [~~7~~] and (h)
4 of this section [~~and Section 1.26 of this article,~~] for the period
5 beginning January 1, 2005 [~~2008~~], the amount of permitted
6 withdrawals from the aquifer may not exceed the sum of all regular
7 permits issued or for which an application has been filed and
8 issuance is pending action by the authority as of January 1, 2005.
9 If annexation occurs, the amount of permitted withdrawals may be
10 adjusted to include permits issued for wells in the annexed area as
11 of January 1, 2005 [~~400,000 acre-feet of water for each calendar~~
12 ~~year~~].

13 (f) If the level of the aquifer is equal to or greater than
14 665 [~~650~~] feet above mean sea level as measured at well J-17, the
15 authority may authorize withdrawal from the San Antonio pool, on an
16 uninterrupted basis, of permitted amounts. If the level of the
17 aquifer is equal to or greater than 845 feet at well J-27, the
18 authority may authorize withdrawal from the Uvalde pool, on an
19 uninterrupted basis, of permitted amounts. In accordance with
20 Section 1.26 of this article, the [~~The~~] authority shall limit the
21 additional withdrawals to ensure that springflows are not affected
22 during critical drought conditions.

23 (h) To accomplish the purposes of this article, [~~by June 1,~~
24 ~~1994,~~] the authority, through a program, shall implement and
25 enforce water management practices, procedures, and methods to
26 ensure that, not later than December 31, 2012, the continuous
27 minimum springflows of the Comal Springs and the San Marcos Springs

1 are maintained to protect endangered and threatened species to the
2 extent required by federal law and to achieve other purposes
3 provided by Subsection (a) of this section and Section 1.26 of this
4 article. The authority from time to time as appropriate may revise
5 the practices, procedures, and methods. To meet this requirement,
6 the authority shall require:

7 (1) phased reductions in the amount of water that may
8 be used or withdrawn by existing users or categories of other users,
9 including the authority's critical period management plan
10 established under Section 1.26 of this article; or

11 (2) implementation of alternative management
12 practices, procedures, and methods.

13 SECTION 5.03. Subsection (c), Section 1.15, Chapter 626,
14 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
15 read as follows:

16 (c) The authority may issue regular permits, term permits,
17 and emergency permits. Except as provided in Section 1.14(f) and
18 Section 1.26 of this article, regular permits may not be issued on
19 an interruptible basis, and the total withdrawals authorized by all
20 regular permits issued by the authority may not exceed the
21 limitations provided by Section 1.14 of this article.

22 SECTION 5.04. Subsection (b), Section 1.19, Chapter 626,
23 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
24 read as follows:

25 (b) Withdrawal of water under a term permit must be
26 consistent with the authority's critical period management plan
27 established under Section 1.26 of this article. A holder of a term

1 permit may not withdraw water from the San Antonio pool of the
2 aquifer unless the level of the aquifer is higher than 675 [~~665~~]
3 feet above sea level, as measured at Well J-17, and the flow at
4 Comal Springs as determined by Section 1.26(c) is greater than 350
5 cfs.

6 SECTION 5.05. Article 1, Chapter 626, Acts of the 73rd
7 Legislature, Regular Session, 1993, is amended by amending Section
8 1.26 and adding Section 1.26A to read as follows:

9 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After
10 review of the recommendations received, as prescribed in Section
11 1.26A of this article, the [~~The~~] authority shall prepare and
12 coordinate implementation of a [~~plan for~~] critical period
13 management plan in a manner consistent with Section 1.14(a) [~~on or~~
14 ~~before September 1, 1995]~~. The mechanisms must:

15 (1) distinguish between discretionary use and
16 nondiscretionary use;

17 (2) require reductions of all discretionary use to the
18 maximum extent feasible;

19 (3) require utility pricing, to the maximum extent
20 feasible, to limit discretionary use by the customers of water
21 utilities; and

22 (4) require reduction of nondiscretionary use by
23 permitted or contractual users, to the extent further reductions
24 are necessary, in the reverse order of the following water use
25 preferences:

26 (A) municipal, domestic, and livestock;

27 (B) industrial and crop irrigation;

- (C) residential landscape irrigation;
- (D) recreational and pleasure; and
- (E) other uses that are authorized by law.

(b) Not later than January 1, 2006, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages at no less than the amounts indicated in Tables 1 and 2 whether according to the index well levels or Comal Springs flow as may be applicable, for a maximum total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 30 percent under Table 2:

TABLE 1 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE SAN ANTONIO POOL

<u>INDEX WELL</u>	<u>COMAL SPRINGS</u>	<u>CRITICAL</u>	<u>WITHDRAWAL</u>
<u>J-17 LEVEL MSL</u>	<u>FLOW CFS</u>	<u>PERIOD STAGE</u>	<u>REDUCTION</u>
			<u>PERCENTAGE</u>
<u><665</u>	<u>N/A</u>	<u>I</u>	<u>10%</u>
<u><650</u>	<u>N/A</u>	<u>II</u>	<u>10%</u>
<u><640</u>	<u><150</u>	<u>III</u>	<u>10%</u>
<u><630</u>	<u><100</u>	<u>IV</u>	<u>10%</u>

TABLE 2 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE UVALDE POOL

<u>INDEX WELL J-27 MSL</u>	<u>CRITICAL PERIOD</u>	<u>WITHDRAWAL</u>
<u>FOR UVALDE POOL</u>	<u>STAGE</u>	<u>REDUCTION</u>
		<u>PERCENTAGE</u>
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>II</u>	<u>N/A</u>
<u><845</u>	<u>III</u>	<u>15%</u>

1 <842

IV

15%

2 (c) The authority shall continuously track the average
3 daily discharge rate measured over each period of five consecutive
4 days at Comal Springs to determine whether a reduction in
5 withdrawals to the Stage III reduction level is required. The
6 authority shall track the average daily discharge rate measured for
7 any five days in a period of 10 consecutive days to determine
8 whether a reduction in withdrawals to the Stage IV reduction level
9 is required.

10 (d) Beginning September 1, 2005, the authority shall not
11 allow the volume of permitted withdrawals to exceed an annualized
12 rate of 340,000 acre-feet, under critical period Stage IV. After
13 January 1, 2012, the authority shall not allow the volume of
14 permitted withdrawals to exceed an annualized rate of 320,000
15 acre-feet, under critical period Stage IV. After January 1, 2020,
16 the authority shall not allow the volume of permitted withdrawals
17 to exceed an annualized rate of 288,000 acre-feet, under critical
18 period Stage IV.

19 (e) From time to time, the authority by rule may amend the
20 withdrawal reduction criteria of the authority's critical period
21 management plan as set forth in Subsections (b) and (c), after
22 review and consideration of the recommendations from the
23 Environmental Flows Commission, the Edwards Aquifer Area expert
24 science team, and the Edwards Aquifer Area Stakeholders Committee,
25 as prescribed in Section 1.26A of this article. The amended plan
26 must be consistent with Section 1.14(a) of this article.

27 Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND

1 STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) The Environmental
2 Flows Commission, as established under Section 11.0236, Water Code,
3 shall appoint a 15-member Edwards Aquifer Area Stakeholders
4 Committee not later than January 1, 2006. The composition of the
5 committee will be as follows:

6 (1) five Municipal Edwards Aquifer permit holders;
7 (2) two Irrigation Edwards Aquifer permit holders;
8 (3) three Industrial Edwards Aquifer permit holders;
9 (4) four Downstream Water Rights holders in the
10 Guadalupe River Basin; and

11 (5) one representative of a public interest group
12 related to instream flows in the Guadalupe River Basin and bay and
13 estuary inflows from the Guadalupe River.

14 (b) The Edwards Aquifer Area Stakeholders Committee shall
15 appoint a seven-member Edwards Aquifer Area expert science team not
16 later than April 30, 2006. The expert science team must be composed
17 of technical experts with special expertise regarding the Edwards
18 Aquifer system, spring flows, or the development of withdrawal
19 limitations. Chapter 2110, Government Code, does not apply to the
20 size, composition, or duration of the expert science team. A member
21 of the Texas Environmental Flows science advisory committee
22 established in Section 11.02361, Water Code, shall serve as liaison
23 to the Edwards Aquifer Area expert science team.

24 (c) The expert science team shall develop an analysis of
25 spring discharge rates and aquifer levels as a function of
26 withdrawal levels. Based upon this analysis and the required
27 elements to be considered by the authority in Section 1.14 of this

1 article, the Edwards Aquifer Area expert science team shall,
2 through a collaborative process designed to achieve consensus,
3 create recommendations for withdrawal reduction levels and stages
4 for critical period management and submit them to the Edwards
5 Aquifer Area Stakeholders Committee, the Environmental Flows
6 Commission, and the authority. The initial recommendations must be
7 completed and submitted no later than September 30, 2006.

8 (d) In developing its recommendations, the Edwards Aquifer
9 Area expert science team must consider all reasonably available
10 science, including any Edwards Aquifer specific studies, and the
11 recommendations must be based solely on the best science available.
12 The Edwards Aquifer Area Stakeholders Committee may not change the
13 recommendations of the Edwards Aquifer Area expert science team
14 regarding the withdrawal limitations appropriate to achieve the
15 purposes of Section 1.14 of this article.

16 (e) The Edwards Aquifer Area Stakeholders Committee shall
17 review the withdrawal limitation and critical period management
18 recommendations submitted by the expert science team and shall
19 consider them in conjunction with other factors, including the
20 present and future needs for water for other uses related to water
21 supply planning in the Edwards Aquifer Area and the required
22 elements to be considered by the authority in Section 1.14 of this
23 article. The stakeholders committee shall develop recommendations
24 regarding a critical period management plan and submit its
25 recommendations to the authority and to the Environmental Flows
26 Commission. In developing its recommendations, the stakeholders
27 committee shall operate on a consensus basis to the maximum extent

1 possible. The initial recommendations must be completed and
2 submitted no later than October 31, 2006.

3 (f) The Environmental Flows Commission shall submit to the
4 authority its comments on and recommendations regarding the Edwards
5 Aquifer Area expert science team's recommended withdrawal
6 reduction levels and stages for critical period management needed
7 to maintain target spring discharge and aquifer levels. The
8 withdrawal reduction recommendations shall be based upon a
9 combination of spring discharge rates of the San Marcos and Comal
10 Springs and levels at the J-17 and J-27 wells.

11 (g) The Edwards Aquifer Area expert science team, Edwards
12 Aquifer Area Stakeholder Committee, and the Environmental Flows
13 Commission shall submit recommendations to the authority for use in
14 developing its rules relative to establishing the critical period
15 management plan.

16 (h) Where reasonably practicable, meetings of the Edwards
17 Aquifer Area expert science team and Edwards Aquifer Area
18 Stakeholders Committee must be open to the public.

19 (i) In recognition of the importance of critical period
20 management to adapt to changed conditions or information, after
21 submitting its recommendations regarding withdrawal limitations
22 and strategies to meet the spring flow needs to the authority, the
23 stakeholders committee, with the assistance of the expert science
24 team, shall prepare and submit to the Environmental Flows
25 Commission a work plan. The work plan must:

26 (1) establish a periodic review of the critical period
27 management plan, to occur at least once every five years;

1 (2) prescribe specific monitoring, studies, and
2 activities; and

3 (3) establish a schedule for continuing the validation
4 or refinement of the critical period management plan adopted by the
5 authority, and the strategies to achieve the plan.

6 (j) To assist the flows commission to assess the extent to
7 which the recommendations of the Edwards Aquifer Area expert
8 science team are considered and implemented, the authority shall
9 provide written reports to the flows commission, at intervals
10 determined by the flows commission, that describe:

11 (1) the actions taken in response to each
12 recommendation; and

13 (2) for each recommendation not implemented, the
14 reason it was not implemented.

15 SECTION 5.06. Subsections (b) and (i), Section 1.29,
16 Section 626, Acts of the 73rd Legislature, Regular Session, 1993,
17 are amended to read as follows:

18 (b) The authority shall assess equitable aquifer management
19 fees based on aquifer use under the water management plan to finance
20 its administrative expenses and programs authorized under this
21 article. Each water district governed by Chapter 36 [~~52~~], Water
22 Code, that is within the authority's boundaries may contract with
23 the authority to pay expenses of the authority through taxes in lieu
24 of user fees to be paid by water users in the district. The contract
25 must provide that the district will pay an amount equal to the
26 amount that the water users in the district would have paid through
27 user fees. The authority may not collect a total amount of fees and

1 taxes that is more than is reasonably necessary for the
2 administration of the authority.

3 (i) The authority shall provide money as necessary, but not
4 to exceed \$75,000, annually adjusted for changes in the consumer
5 price index [~~five percent of the money collected under Subsection~~
6 ~~(d) of this section~~], to finance the South Central Texas Water
7 Advisory Committee's administrative expenses and programs
8 authorized under this article.

9 SECTION 5.07. Subsection (a), Section 1.45, Chapter 626,
10 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
11 read as follows:

12 (a) The authority may own, finance, design, construct,
13 [~~build or~~] operate, and maintain recharge dams and associated
14 facilities, structures, or works in the contributing or recharge
15 area of the aquifer if the recharge is made to increase the yield of
16 the aquifer and the recharge project does not impair senior water
17 rights or vested riparian rights.

18 SECTION 5.08. The following sections of Chapter 626, Acts
19 of the 73rd Legislature, Regular Session, 1993, are repealed:

- 20 (1) Subsections (b) and (d), Section 1.14;
21 (2) Section 1.21; and
22 (3) Subsections (a), (c), (d), and (h), Section 1.29.

23 ARTICLE 6. EFFECTIVE DATE

24 SECTION 6.01. Except as otherwise provided by this Act,
25 this Act takes effect September 1, 2005.