

By: Armbrister

S.B. No. 3

Substitute the following for S.B. No. 3:

By: Puente

C.S.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 market
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, including representatives
12 of both the manufacturing and refining sectors;
13 (6) commercial fishermen;
14 (7) public interest groups;
15 (8) regional water planning groups;
16 (9) groundwater conservation districts;
17 (10) river authorities and other conservation and
18 reclamation districts with jurisdiction over surface water; and
19 (11) environmental interests.

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

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

26 (i) Each basin and bay area stakeholders committee shall
27 establish a basin and bay expert science team for the river basin

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

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

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

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

1 (m) Each basin and bay expert science team shall develop
2 environmental flow analyses and a recommended environmental flow
3 regime for the river basin and bay system for which the team is
4 established through a collaborative process designed to achieve a
5 consensus. In developing the analyses and recommendations, the
6 science team must consider all reasonably available science,
7 without regard to the need for the water for other uses, and the
8 science team's recommendations must be based solely on the best
9 science available. For the Rio Grande below Fort Quitman, any uses
10 attributable to Mexican water flows must be excluded from
11 environmental flow regime recommendations.

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

21 (o) Each basin and bay area stakeholders committee shall
22 review the environmental flow analyses and environmental flow
23 regime recommendations submitted by the committee's basin and bay
24 expert science team and shall consider them in conjunction with
25 other factors, including the present and future needs for water for
26 other uses related to water supply planning in the pertinent river
27 basin and bay system. For the Rio Grande, the basin and bay area

1 stakeholders committee shall also consider the water accounting
2 requirements for any international water sharing treaty, minutes,
3 and agreement applicable to the Rio Grande and the effects on
4 allocation of water by the Rio Grande watermaster in the middle and
5 lower Rio Grande. The Rio Grande basin and bay expert science team
6 may not recommend any environmental flow regime that would result
7 in a violation of a treaty or court decision. The basin and bay area
8 stakeholders committee shall develop recommendations regarding
9 environmental flow standards and strategies to meet the
10 environmental flow standards and submit those recommendations to
11 the commission and to the flows commission in accordance with the
12 applicable schedule specified by or established under Subsection
13 (c), (d), or (e). In developing its recommendations, the basin and
14 bay area stakeholders committee shall operate on a consensus basis
15 to the maximum extent possible.

16 (p) In recognition of the importance of adaptive
17 management, after submitting its recommendations regarding
18 environmental flow standards and strategies to meet the
19 environmental flow standards to the commission, each basin and bay
20 area stakeholders committee, with the assistance of the pertinent
21 basin and bay expert science team, shall prepare and submit for
22 approval by the flows commission a work plan. The work plan must:

23 (1) establish a periodic review of the basin and bay
24 environmental flow analyses and environmental flow regime
25 recommendations, environmental flow standards, and strategies, to
26 occur at least once every 10 years;

27 (2) prescribe specific monitoring, studies, and

1 activities; and

2 (3) establish a schedule for continuing the validation
3 or refinement of the basin and bay environmental flow analyses and
4 environmental flow regime recommendations, the environmental flow
5 standards adopted by the commission, and the strategies to achieve
6 those standards.

7 (g) In accordance with the applicable schedule specified by
8 or established under Subsection (c), (d), or (e), the flows
9 commission, with input from the science advisory committee, shall
10 review the environmental flow analyses and environmental flow
11 regime recommendations submitted by each basin and bay expert
12 science team. If appropriate, the flows commission shall submit
13 comments on the analyses and recommendations to the commission for
14 use by the commission in adopting rules under Section 11.1471.
15 Comments must be submitted not later than six months after the date
16 of receipt of the analyses and recommendations.

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

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

22 (a) The commission may not issue a new permit for instream
23 flows dedicated to environmental needs or bay and estuary inflows.
24 The [~~This section does not prohibit the~~] commission may approve
25 [~~from issuing~~] an application to amend [~~amendment to~~] an existing
26 permit or certificate of adjudication to change the use to or add a
27 use for instream flows dedicated to environmental needs or bay and

1 estuary inflows.

2 (b) This section does not alter the commission's
3 obligations under Section 11.042(b), 11.042(c), 11.046(b),
4 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491,
5 11.150, 11.152, 16.058, or 16.059.

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

8 (b) The state may recover the penalties prescribed in
9 Subsection (a) [~~of this section~~] by suit brought for that purpose in
10 a court of competent jurisdiction. The state may seek those
11 penalties regardless of whether a watermaster has been appointed
12 for the water division, river basin, or segment of a river basin
13 where the unlawful use is alleged to have occurred.

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

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

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

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

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

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

3 (a) If a person violates this chapter, a rule or order
4 adopted under this chapter or Section 16.236 [~~of this code~~], or a
5 permit, certified filing, or certificate of adjudication issued
6 under this chapter, the commission may assess an administrative
7 penalty against that person as provided by this section. The
8 commission may assess an administrative penalty for a violation
9 relating to a water division or a river basin or segment of a river
10 basin regardless of whether a watermaster has been appointed for
11 the water division or river basin or segment of the river basin.

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

14 (a) Upon witnessing a violation of this chapter or a rule or
15 order or a water right issued under this chapter, the executive
16 director or a person designated by the executive director,
17 including a watermaster or the watermaster's deputy, [~~as defined by~~
18 ~~commission rule,~~] may issue the alleged violator a field citation
19 alleging that a violation has occurred and providing the alleged
20 violator the option of either:

21 (1) without admitting to or denying the alleged
22 violation, paying an administrative penalty in accordance with the
23 predetermined penalty amount established under Subsection (b) [~~of~~
24 ~~this section~~] and taking remedial action as provided in the
25 citation; or

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

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

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

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

7 (2) unappropriated water is available in the source of
8 supply;

9 (3) the proposed appropriation:

10 (A) is intended for a beneficial use;

11 (B) does not impair existing water rights or
12 vested riparian rights;

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

14 (D) considers any applicable environmental flow
15 standards established under Section 11.1471 and, if applicable, the
16 assessments performed under Sections 11.147(d) and (e) and Sections
17 11.150, 11.151, and 11.152; and

18 (E) addresses a water supply need in a manner
19 that is consistent with the state water plan and the relevant
20 approved regional water plan for any area in which the proposed
21 appropriation is located, unless the commission determines that
22 conditions warrant waiver of this requirement; and

23 (4) the applicant has provided evidence that
24 reasonable diligence will be used to avoid waste and achieve water
25 conservation as defined by [~~Subdivision (8)(B),~~] Section
26 11.002(8)(B) [~~11.002~~].

27 SECTION 1.16. Section 11.147, Water Code, is amended by

1 amending Subsections (b), (d), and (e) and adding Subsections
2 (e-1), (e-2), and (e-3) to read as follows:

3 (b) In its consideration of an application for a permit to
4 store, take, or divert water, the commission shall assess the
5 effects, if any, of the issuance of the permit on the bays and
6 estuaries of Texas. For permits issued within an area that is 200
7 river miles of the coast, to commence from the mouth of the river
8 thence inland, the commission shall include in the permit any
9 conditions considered necessary to maintain freshwater inflows to
10 any affected bay and estuary system, to the extent practicable when
11 considering all public interests and the studies mandated by
12 Section 16.058 as evaluated under Section 11.1491[~~, those~~
13 ~~conditions considered necessary to maintain beneficial inflows to~~
14 ~~any affected bay and estuary system~~].

15 (d) In its consideration of an application to store, take,
16 or divert water, the commission shall include in the permit, to the
17 extent practicable when considering all public interests, those
18 conditions considered by the commission necessary to maintain
19 existing instream uses and water quality of the stream or river to
20 which the application applies. In determining what conditions to
21 include in the permit under this subsection, the commission shall
22 consider among other factors:

- 23 (1) the studies mandated by Section 16.059; and
24 (2) any water quality assessment performed under
25 Section 11.150.

26 (e) The commission shall include in the permit, to the
27 extent practicable when considering all public interests, those

1 conditions considered by the commission necessary to maintain fish
2 and wildlife habitats. In determining what conditions to include
3 in the permit under this subsection, the commission shall consider
4 any assessment performed under Section 11.152.

5 (e-1) Any permit for a new appropriation of water or an
6 amendment to an existing water right that increases the amount of
7 water authorized to be stored, taken, or diverted must include a
8 provision allowing the commission to adjust the conditions included
9 in the permit or amended water right to provide for protection of
10 instream flows or freshwater inflows. With respect to an amended
11 water right, the provision may not allow the commission to adjust a
12 condition of the amendment other than a condition that applies only
13 to the increase in the amount of water to be stored, taken, or
14 diverted authorized by the amendment. This subsection does not
15 affect an appropriation of or an authorization to store, take, or
16 divert water under a permit or amendment to a water right issued
17 before September 1, 2005. The commission shall adjust the
18 conditions if the commission determines, through an expedited
19 public comment process, that such an adjustment is appropriate to
20 achieve compliance with applicable environmental flow standards
21 adopted under Section 11.1471. The adjustment:

22 (1) in combination with any previous adjustments made
23 under this subsection may not increase the amount of the
24 pass-through or release requirement for the protection of instream
25 flows or freshwater inflows by more than 12.5 percent of the
26 annualized total of that requirement contained in the permit as
27 issued or of that requirement contained in the amended water right

1 and applicable only to the increase in the amount of water
2 authorized to be stored, taken, or diverted under the amended water
3 right;

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

8 (3) must be based on appropriate consideration of any
9 voluntary contributions to the Texas Water Trust that contribute
10 toward meeting the environmental flow standards.

11 (e-2) Any water right holder making a contribution
12 described by Subsection (e-1)(3) is entitled to appropriate credit
13 of such benefits against adjustments of the holder's water right
14 pursuant to Subsection (e-1)(1).

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

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

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

26 (a) The commission by rule shall:

27 (1) adopt appropriate environmental flow standards

1 for each river basin and bay system in this state that are adequate
2 to support a sound ecological environment, to the maximum extent
3 reasonable considering other public interests and other relevant
4 factors;

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

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

12 (b) In adopting environmental flow standards for a river
13 basin and bay system under Subsection (a)(1), the commission shall
14 consider:

15 (1) the definition of the geographical extent of the
16 river basin and bay system adopted by the flows commission under
17 Section 11.02362(a) and the definition and designation of the river
18 basin by the board under Section 16.051(c);

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

22 (3) the environmental flow analyses and the
23 recommended environmental flow regime developed by the applicable
24 basin and bay expert science team under Section 11.02362(m);

25 (4) the recommendations regarding environmental flow
26 standards and strategies to meet the flow standards developed by
27 the applicable basin and bay area stakeholders committee under

1 Section 11.02362(o);

2 (5) the specific characteristics of the river basin
3 and bay system;

4 (6) economic factors;

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

7 (8) all reasonably available scientific information,
8 including any scientific information provided by the science
9 advisory committee; and

10 (9) any other appropriate information.

11 (c) Environmental flow standards adopted under Subsection
12 (a)(1) must consist of a schedule of flow quantities, reflecting
13 seasonal and yearly fluctuations that may vary geographically by
14 specific location in a river basin and bay system.

15 (d) As provided by Section 11.023, the commission may not
16 issue a permit for a new appropriation or an amendment to an
17 existing water right that increases the amount of water authorized
18 to be stored, taken, or diverted if the issuance of the permit or
19 amendment would impair an environmental flow set-aside established
20 under Subsection (a)(2). A permit for a new appropriation or an
21 amendment to an existing water right that increases the amount of
22 water authorized to be stored, taken, or diverted that is issued
23 after the adoption of an applicable environmental flow set-aside
24 must contain appropriate conditions to ensure protection of the
25 environmental flow set-aside.

26 (e) An environmental flow set-aside established under
27 Subsection (a)(2) for a river basin and bay system other than the

1 middle and lower Rio Grande must be assigned a priority date
2 corresponding to the date the commission receives environmental
3 flow regime recommendations from the applicable basin and bay
4 expert science team and be included in the appropriate water
5 availability models in connection with an application for a permit
6 for a new appropriation or for an amendment to an existing water
7 right that increases the amount of water authorized to be stored,
8 taken, or diverted.

9 (f) An environmental flow standard or environmental flow
10 set-aside adopted under Subsection (a) may be altered by the
11 commission in a rulemaking process undertaken in accordance with a
12 schedule established by the commission. The commission's schedule
13 may not provide for the rulemaking process to occur more frequently
14 than once every 10 years unless the applicable work plan approved by
15 the flows commission under Section 11.02362(p) provides for a
16 periodic review under that section to occur more frequently than
17 once every 10 years. In that event, the commission may provide for
18 the rulemaking process to be undertaken in conjunction with the
19 periodic review if the commission determines that schedule to be
20 appropriate.

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

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

26 SECTION 1.19. Section 11.148, Water Code, is amended by
27 adding Subsection (a-1) and amending Subsections (b) and (c) to

1 read as follows:

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

8 (b) Before the commission suspends a permit condition under
9 Subsection (a) or makes water available temporarily under
10 Subsection (a-1) [~~of this section~~], it must give written notice to
11 the Parks and Wildlife Department of the proposed action
12 [~~suspension~~]. The commission shall give the Parks and Wildlife
13 Department an opportunity to submit comments on the proposed action
14 [~~suspension~~] within 72 hours from such time and the commission
15 shall consider those comments before issuing its order implementing
16 the proposed action [~~imposing the suspension~~].

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

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

27 (a) The Parks and Wildlife Department and the commission

1 shall have joint responsibility to review the studies prepared
2 under Section 16.058 [~~of this code~~], to determine inflow conditions
3 necessary for the bays and estuaries, and to provide information
4 necessary for water resources management. Each agency shall
5 designate an employee to share equally in the oversight of the
6 program. Other responsibilities shall be divided between the Parks
7 and Wildlife Department and the commission to maximize present
8 in-house capabilities of personnel and to minimize costs to the
9 state. Each agency shall have reasonable access to all information
10 produced by the other agency. Publication of reports completed
11 under this section shall be submitted for comment to [~~both~~] the
12 commission, [~~and~~] the Parks and Wildlife Department, the flows
13 commission, the science advisory committee, and any applicable
14 basin and bay area stakeholders committee and basin and bay expert
15 science team.

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

18 (g) The commission may not assess costs under this section
19 against a holder of a non-priority hydroelectric right that owns or
20 operates privately owned facilities that collectively have a
21 capacity of less than two megawatts or against a holder of a water
22 right placed in the Texas Water Trust for a term of at least 20
23 years. [~~This subsection is not intended to affect in any way the~~
24 ~~fees assessed on a water right holder by the commission under~~
25 ~~Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular~~
26 ~~Session, 1993. For purposes of Section 1.29(d), Chapter 626, Acts~~
27 ~~of the 73rd Legislature, Regular Session, 1993, a holder of a~~

1 ~~non-priority hydroelectric right that owns or operates privately~~
2 ~~owned facilities that collectively have a capacity of less than two~~
3 ~~megawatts shall be assessed fees at the same rate per acre-foot~~
4 ~~charged to a holder of a non-priority hydroelectric right that owns~~
5 ~~or operates privately owned facilities that collectively have a~~
6 ~~capacity of more than two megawatts.]~~

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

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

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

14 (2) a holder of a water right placed in the Texas Water
15 Trust for a term of at least 20 years.

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

18 Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For
19 each river basin or segment of a river basin for which the executive
20 director appoints a watermaster under this subchapter, the
21 executive director shall appoint a watermaster advisory committee
22 consisting of at least nine but not more than 15 members. A member
23 of the advisory committee must be a holder of a water right or a
24 representative of a holder of a water right in the river basin or
25 segment of the river basin for which the watermaster is appointed.
26 In appointing members to the advisory committee, the executive
27 director shall consider:

- 1 (1) geographic representation;
2 (2) amount of water rights held;
3 (3) different types of holders of water rights and
4 users, including water districts, municipal suppliers, irrigators,
5 and industrial users; and
6 (4) experience and knowledge of water management
7 practices.

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

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

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

17 (e) The advisory committee shall:

18 (1) make recommendations to the executive director
19 regarding activities of benefit to the holders of water rights in
20 the administration and distribution of water to holders of water
21 rights in the river basin or segment of the river basin for which
22 the watermaster is appointed;

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

25 (3) perform other advisory duties as requested by the
26 executive director regarding the watermaster operation or as
27 requested by holders of water rights and considered by the

1 committee to benefit the administration of water rights in the
2 river basin or segment of the river basin for which the watermaster
3 is appointed.

4 SECTION 1.24. Section 11.454, Water Code, is amended to
5 read as follows:

6 Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER.

7 Section 11.327 applies to the duties and authority of a watermaster
8 appointed for a river basin or segment of a river basin under this
9 subchapter in the same manner as that section applies to the duties
10 and authority of a watermaster appointed for a water division under
11 Subchapter G [~~A watermaster as the agent of the commission and under~~
12 ~~the executive director's supervision shall:~~

13 [~~(1) divide the water of the streams or other sources~~
14 ~~of supply of his segment or basin in accordance with the authorized~~
15 ~~water rights,~~

16 [~~(2) regulate or cause to be regulated the controlling~~
17 ~~works of reservoirs and diversion works in time of water shortage,~~
18 ~~as is necessary because of the rights existing in the streams of his~~
19 ~~segment or basin, or as is necessary to prevent the waste of water~~
20 ~~or its diversion, taking, storage, or use in excess of the~~
21 ~~quantities to which the holders of water rights are lawfully~~
22 ~~entitled, and~~

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

25 SECTION 1.25. Section 11.455, Water Code, is amended to
26 read as follows:

27 Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER

1 ~~[ASSESSMENTS]~~. (a) Section 11.329 applies to the payment of the
2 compensation and expenses of a watermaster appointed for a river
3 basin or segment of a river basin under this subchapter in the same
4 manner as that section applies to the payment of the compensation
5 and expenses of a watermaster appointed for a water division under
6 Subchapter G.

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

9 (c) Money deposited under this section to the credit of the
10 watermaster fund may be used only for the purposes specified by
11 Section 11.3291 with regard to the watermaster operation under this
12 subchapter with regard to which the assessments were collected ~~[The~~
13 ~~commission may assess the costs of the watermaster against all~~
14 ~~persons who hold water rights in the river basin or segment of the~~
15 ~~river basin under the watermaster's jurisdiction in accordance with~~
16 ~~Section 11.329 of this code].~~

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

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

21 (1) to compensate the members of the Texas
22 Environmental Flows Science Advisory Committee established under
23 Section 11.02361 for attendance and participation at meetings of
24 the committee and for transportation, meals, lodging, or other
25 travel expenses associated with attendance at those meetings as
26 provided by the General Appropriations Act;

27 (2) for contracts with cooperating state and federal

1 agencies and universities and with private entities as necessary to
2 provide technical assistance to enable the Texas Environmental
3 Flows Science Advisory Committee and the basin and bay expert
4 science teams established under Section 11.02362 to perform their
5 statutory duties;

6 (3) to compensate the members of the expert science
7 teams created pursuant to Section 11.02362(i) for attendance and
8 participation at meetings of the teams and for transportation,
9 meals, lodging, or other travel expenses associated with attendance
10 at those meetings as provided by the General Appropriations Act;
11 and

12 (4) for contracts with political subdivisions
13 designated as representatives of stakeholder committees
14 established pursuant to Section 11.02362 to fund all or part of the
15 administrative expenses for conducting meetings of the stakeholder
16 committee or the associated expert science team.

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

20 (c) The dedication of any water rights placed in trust must
21 be reviewed and approved by the commission, in consultation with
22 the board, ~~and~~ the Parks and Wildlife Department, and the
23 Environmental Flows Commission. In addition, the Department of
24 Agriculture and the basin and bay area stakeholders committee and
25 basin and bay expert science team established under Section
26 11.02362 for the river basin and bay system to which the water right
27 pertains may provide input to the commission, as appropriate,

1 during the review and approval process for dedication of water
2 rights.

3 (e) While a water right is held in the trust, the water
4 authorized for beneficial use under the terms of the water right is
5 considered to be held for instream flows, water quality, fish and
6 wildlife habitat, bay and estuary inflows, or other environmental
7 uses without the need for a permit amendment. After the water right
8 is withdrawn in whole or in part from the trust, the use of the water
9 right or portion of the water right withdrawn must be in accordance
10 with the terms of the water right.

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

13 (d) The priority studies shall be completed not later than
14 December 31, 2014 [~~2010~~]. The Parks and Wildlife Department, the
15 commission, and the board shall establish a work plan that
16 prioritizes the studies and that sets interim deadlines providing
17 for publication of flow determinations for individual rivers and
18 streams on a reasonably consistent basis throughout the prescribed
19 study period. Before publication, completed studies shall be
20 submitted for comment to the commission, the board, and the Parks
21 and Wildlife Department.

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

25 (h) The commission shall apportion, assess, and recover the
26 reasonable costs of administering the water quality management
27 programs under this section from users of water and wastewater

1 permit holders in the watershed according to the records of the
2 commission generally in proportion to their right, through permit
3 or contract, to use water from and discharge wastewater in the
4 watershed. Irrigation water rights, ~~[and]~~ non-priority
5 hydroelectric rights of a water right holder that owns or operates
6 privately owned facilities that collectively have a capacity of
7 less than two megawatts, and water rights held in the Texas Water
8 Trust for terms of at least 20 years will not be subject to this
9 assessment. The cost to river authorities and others to conduct
10 water quality monitoring and assessment shall be subject to prior
11 review and approval by the commission as to methods of allocation
12 and total amount to be recovered. The commission shall adopt rules
13 to supervise and implement the water quality monitoring,
14 assessment, and associated costs. The rules shall ensure that
15 water users and wastewater dischargers do not pay excessive
16 amounts, that program funds are equitably apportioned among basins,
17 that a river authority may recover no more than the actual costs of
18 administering the water quality management programs called for in
19 this section, and that no municipality shall be assessed cost for
20 any efforts that duplicate water quality management activities
21 described in Section 26.177 ~~[of this chapter]~~. The rules
22 concerning the apportionment and assessment of reasonable costs
23 shall provide for a recovery of not more than \$5,000,000 annually.
24 Costs recovered by the commission are to be deposited to the credit
25 of the water resource management account and may be used only to
26 accomplish the purposes of this section. The commission may apply
27 not more than 10 percent of the costs recovered annually toward the

1 commission's overhead costs for the administration of this section
2 and the implementation of regional water quality assessments. The
3 commission, with the assistance and input of each river authority,
4 shall file a written report accounting for the costs recovered
5 under this section with the governor, the lieutenant governor, and
6 the speaker of the house of representatives on or before December 1
7 of each even-numbered year.

8 SECTION 1.30. Subsections (d), (k), (l), and (m), Section
9 11.0236, Subsection (c), Section 11.0237, and Subsection (b),
10 Section 11.1491, Water Code, are repealed.

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

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

18 (b) As soon as practicable after taking office, the initial
19 members of the Environmental Flows Commission shall appoint the
20 initial members of the Texas Environmental Flows Science Advisory
21 Committee as provided by Section 11.02361, Water Code, as added by
22 this article. The terms of the initial members of the committee
23 expire March 1, 2010.

24 (c) The Environmental Flows Commission shall appoint the
25 members of each basin and bay area stakeholders committee as
26 provided by Section 11.02362, Water Code, as added by this article.
27 The terms of the initial members of each committee expire March 1 of

1 the fifth year that begins after the year in which the initial
2 appointments are made.

3 (d) Each basin and bay area stakeholders committee shall
4 appoint the members of the basin and bay expert science team for the
5 river basin and bay system for which the committee is established as
6 provided by Section 11.02362, Water Code, as added by this article.
7 The terms of the initial members of each team expire April 1 of the
8 fifth year that begins after the year in which the initial
9 appointments are made.

10 (e) The executive director of the Texas Commission on
11 Environmental Quality shall appoint the members of the watermaster
12 advisory committee under Section 11.4531, Water Code, as added by
13 this article, for each river basin or segment of a river basin for
14 which the executive director appoints a watermaster under
15 Subchapter I, Chapter 11, Water Code. The terms of the initial
16 members of each committee expire August 31 of the first
17 odd-numbered year that begins after the year in which the initial
18 appointments are made.

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

23 (1) water appropriated under a permit for a new
24 appropriation of water the application for which is pending with
25 the Texas Commission on Environmental Quality on the effective date
26 of this article or is filed with the commission on or after that
27 date; or

1 (2) the increase in the amount of water authorized to
2 be stored, taken, or diverted under an amendment to an existing
3 water right that increases the amount of water authorized to be
4 stored, taken, or diverted and the application for which is pending
5 with the Texas Commission on Environmental Quality on the effective
6 date of this article or is filed with the commission on or after
7 that date.

8 ARTICLE 2. WATER CONSERVATION AND PLANNING

9 SECTION 2.01. Section 1.003, Water Code, is amended to read
10 as follows:

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

14 (1) the control, storage, preservation, and
15 distribution of the state's storm and floodwaters and the waters of
16 its rivers and streams for irrigation, power, and other useful
17 purposes;

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

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

22 (4) the conservation and development of its forest,
23 water, and hydroelectric power;

24 (5) the navigation of the state's inland and coastal
25 waters; ~~and~~

26 (6) the maintenance of a proper ecological environment
27 of the bays and estuaries of Texas and the health of related living

1 marine resources; and

2 (7) the voluntary stewardship of public and private
3 lands to benefit the water in the state, as defined by Section
4 26.001.

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

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

8 (a) The legislature finds that voluntary land stewardship
9 enhances the efficiency and effectiveness of this state's
10 watersheds by helping to increase surface water and groundwater
11 supplies, resulting in a benefit to the natural resources of this
12 state and to the general public. It is therefore the policy of this
13 state to encourage voluntary land stewardship as a significant
14 water management tool by providing assistance to landowners to
15 conduct those activities.

16 (b) "Land stewardship," as used in this code, is the
17 voluntary practice of managing land to conserve or enhance suitable
18 landscapes and the ecosystem values of the land. Land stewardship
19 includes land and habitat management, wildlife conservation, and
20 watershed protection. Land stewardship practices include runoff
21 reduction, prescribed burning, managed grazing, brush management,
22 erosion management, reseeding with native plant species, riparian
23 management and restoration, and spring and creek-bank protection,
24 all of which benefit the water resources of this state.

25 SECTION 2.03. Section 11.002, Water Code, is amended by
26 adding Subdivision (20) to read as follows:

27 (20) "Best management practices" means those

1 voluntary efficiency measures developed by the commission and the
2 board that save a quantifiable amount of water, either directly or
3 indirectly, and that can be implemented within a specified time
4 frame.

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

7 (b) Maintaining the biological soundness of the state's
8 rivers, lakes, bays, and estuaries is of great importance to the
9 public's economic health and general well-being. The legislature
10 encourages voluntary water and land stewardship to benefit the
11 water in the state, as defined by Section 26.001.

12 SECTION 2.05. Subsection (b), Section 11.173, Water Code,
13 is amended to read as follows:

14 (b) A permit, certified filing, or certificate of
15 adjudication or a portion of a permit, certified filing, or
16 certificate of adjudication is exempt from cancellation under
17 Subsection (a):

18 (1) to the extent of the owner's participation in the
19 Conservation Reserve Program authorized by the Food Security Act,
20 Pub. L. No. 99-198, Secs. 1231-1236, 99 Stat. 1354, 1509-1514
21 (1985) or a similar governmental program;

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

27 (3) if the permit, certified filing, or certificate of

1 adjudication:

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

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

7 (4) if the permit, certified filing, or certificate of
8 adjudication was obtained as the result of the construction of a
9 reservoir funded, in whole or in part, by the holder of the permit,
10 certified filing, or certificate of adjudication as part of the
11 holder's long-term water planning; or

12 (5) to the extent the nonuse resulted from the
13 implementation of water conservation measures under a water
14 conservation plan submitted by the holder of the permit, certified
15 filing, or certificate of adjudication as evidenced by
16 implementation reports submitted by the holder.

17 SECTION 2.06. Subchapter E, Chapter 13, Water Code, is
18 amended by adding Section 13.146 to read as follows:

19 Sec. 13.146. WATER CONSERVATION PLAN. The commission shall
20 require a retail public utility that provides potable water service
21 to a population of 3,300 or more to submit to the executive
22 administrator of the board a water conservation plan based on
23 specific targets and goals developed by the retail public utility
24 and using appropriate best management practices, as defined by
25 Section 11.002, or other water conservation strategies. For
26 purposes of this section, the population served by a retail public
27 utility shall be determined on the basis of the population

1 estimates contained in the most recent regional water plan adopted
2 for the regional water planning area in which the retail public
3 utility's service area is located.

4 SECTION 2.07. Section 13.502, Water Code, is amended by
5 adding Subsections (f) through (i) to read as follows:

6 (f) Before the executive director may approve a request to
7 change from submetered billing to allocated billing under
8 Subsection (e), the property owner or manager must submit
9 documentation to the commission in support of the request as
10 provided by Subsection (i). The executive director shall assign
11 commission staff who are knowledgeable in water billing issues to
12 review the documentation and make a recommendation to the executive
13 director concerning whether to approve or disapprove the request.
14 In reviewing the documentation, the staff shall consider whether
15 needed repairs or problems are routine in nature or are
16 extraordinary and constitute good cause for the billing change.
17 The executive director may not approve the request unless the
18 property owner or manager demonstrates that all reasonable steps
19 were taken to ensure the proper installation and maintenance of the
20 submetering system and that the circumstances reasonably justify
21 the billing change.

22 (g) The commission by rule shall require a property owner or
23 manager requesting a billing change under Subsection (e) to provide
24 timely notice to affected tenants of the request. The notice must
25 include information relating to the manner in which a tenant may
26 comment to the commission on the request.

27 (h) If the executive director does not approve a request for

1 a billing change under Subsection (e), the executive director shall
2 provide to the property owner or manager an explanation of why the
3 request was disapproved. Disapproval of a request does not
4 preclude a property owner or manager from submitting subsequent
5 requests.

6 (i) A property owner or manager who submits a request for a
7 billing change under Subsection (e) must submit with the request
8 any relevant and detailed information necessary to support the
9 request, including:

10 (1) if the request is based on equipment failures:

11 (A) at least one independent itemized bid
12 indicating the number of submeters that are malfunctioning or that
13 need to be replaced and the cost of the equipment and labor to
14 replace the submeters;

15 (B) copies of any relevant repair or service
16 invoices during the previous 12 months; and

17 (C) an explanation of why the equipment failed
18 before the end of the equipment's expected useful life, if
19 applicable; and

20 (2) if the request is based on meter reading or billing
21 problems:

22 (A) copies of any resident complaints, any
23 correspondence with billing companies, and any correspondence from
24 the commission regarding consumer complaints directly attributable
25 to billing company problems; and

26 (B) an affidavit by the property owner or manager
27 regarding efforts to find alternative service providers that

1 includes an explanation of why alternative providers could not be
2 used.

3 SECTION 2.08. Subsection (b), Section 15.102, Water Code,
4 is amended to read as follows:

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

6 (1) grants or loans for projects that include
7 supplying water and wastewater services in economically distressed
8 areas or nonborder colonias as provided by legislative
9 appropriations, this chapter, and board rules, including projects
10 involving retail distribution of those services; and

11 (2) grants for:

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

14 (B) projects, on specific legislative
15 appropriation for those projects; or

16 (C) water conservation, desalination, brush
17 control, weather modification, regionalization, and projects
18 providing regional water quality enhancement services as defined by
19 board rule, including regional conveyance systems.

20 SECTION 2.09. Subsection (h), Section 16.053, Water Code,
21 is amended by adding Subdivisions (10), (11), (12), and (13) to read
22 as follows:

23 (10) The regional water planning group may amend the
24 regional water plan after the plan has been approved by the board.
25 Subdivisions (1)-(9) apply to an amendment to the plan in the same
26 manner as those subdivisions apply to the plan.

27 (11) This subdivision applies only to a minor

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

24 (12) Notwithstanding Subdivisions (10) and (11), a
25 regional water planning group may revise a regional water plan
26 approved by the board without complying with Subdivisions (1)-(9)
27 or obtaining a determination from the executive administrator that

1 the revision qualifies for adoption in the manner provided by
2 Subdivision (11) if the revision consists only of substituting an
3 alternative water management strategy previously fully evaluated
4 in the planning process and already contained in the current
5 regional water plan for a water management strategy recommended in
6 the plan. The regional water planning group may adopt the revision
7 to the regional water plan at a public meeting held in accordance
8 with Chapter 551, Government Code.

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

15 SECTION 2.10. Chapter 16, Water Code, is amended by adding
16 Subchapter K to read as follows:

17 SUBCHAPTER K. WATER CONSERVATION

18 Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS
19 PROGRAM. (a) The executive administrator shall develop and
20 implement a statewide water conservation public awareness program
21 to educate residents of this state about water conservation. The
22 program shall take into account the differences in water
23 conservation needs of various geographic regions of the state and
24 shall be designed to complement and support existing local and
25 regional water conservation programs.

26 (b) The executive administrator is required to develop and
27 implement the program required by Subsection (a) in a state fiscal

1 biennium only if the legislature appropriates sufficient money in
2 that biennium specifically for that purpose.

3 Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Each
4 entity that is required to submit a water conservation plan to the
5 commission under this code shall submit a copy of the plan to the
6 executive administrator.

7 (b) Each entity that is required to submit a water
8 conservation plan to the executive administrator, board, or
9 commission under this code shall report annually to the executive
10 administrator on the entity's progress in implementing the plan.

11 (c) The executive administrator shall review each water
12 conservation plan and annual report to determine compliance with
13 the minimum requirements and submission deadlines developed under
14 Subsection (e).

15 (d) The board may notify the commission if the board
16 determines that an entity has violated this section or a rule
17 adopted under this section. Notwithstanding Section 7.051(b), a
18 violation of this section or of a rule adopted under this section is
19 enforceable in the manner provided by Chapter 7 for a violation of a
20 provision of this code within the commission's jurisdiction or of a
21 rule adopted by the commission under a provision of this code within
22 the commission's jurisdiction.

23 (e) The board and commission jointly shall adopt rules:

24 (1) identifying the minimum requirements and
25 submission deadlines for the water conservation plans described by
26 Subsection (b) and the annual reports required by that subsection;
27 and

1 (2) providing for the enforcement of this section and
2 rules adopted under this section.

3 SECTION 2.11. Section 17.125, Water Code, is amended by
4 adding Subsection (b-2) to read as follows:

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

8 (1) have already demonstrated significant water
9 conservation savings; or

10 (2) will achieve significant water conservation
11 savings by implementing the proposed project for which the
12 financial assistance is sought.

13 SECTION 2.12. Section 26.003, Water Code, is amended to
14 read as follows:

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

27 SECTION 2.13. Subchapter A, Chapter 2165, Government Code,

1 is amended by adding Section 2165.008 to read as follows:

2 Sec. 2165.008. WATER CONSERVATION SYSTEMS FOR STATE
3 BUILDINGS. (a) The commission may contract with a private vendor,
4 at no cost to the state, to install electronic water conservation
5 systems on toilets, sinks, and showers in state buildings.

6 (b) A private vendor contracting with the commission under
7 this section must:

8 (1) demonstrate that the electronic water
9 conservation systems used will yield an annual cost savings, as
10 verified by the Texas Water Development Board, of at least 50
11 percent of the amount of current plumbing operation costs;

12 (2) have a minimum of five years of verifiable
13 experience with retrofit installations in public buildings;

14 (3) use technological equipment that has a five-year
15 history of use in public buildings;

16 (4) have demonstrable experience with the use and
17 reuse of gray water; and

18 (5) have demonstrable experience with the use of
19 rainwater harvesting.

20 (c) A contract between the commission and a private vendor
21 under this section must include a provision that will ensure a
22 budget-neutral or positive fiscal impact on the state.

23 (d) The commission shall contract for the installation of
24 the conservation systems in at least 15 state buildings designated
25 by the commission. In designating a state building under this
26 subsection, the commission shall consider:

27 (1) the building where the greatest amount of savings

1 can be achieved;

2 (2) the age of the building; and

3 (3) the potential operational and security concerns of
4 the building.

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

9 (f) Not later than December 31, 2006, the commission shall
10 submit a progress report to the lieutenant governor, the speaker of
11 the house of representatives, and the Legislative Budget Board.
12 The report must include an evaluation of the initial installation
13 of the water conservation systems, the effectiveness of the
14 technology used, and the amount of cost savings to the state. The
15 commission may request assistance from the state auditor and the
16 Legislative Budget Board with the preparation of the report and the
17 calculation of savings.

18 SECTION 2.14. Subsection (b), Section 212.0101, Local
19 Government Code, is amended to read as follows:

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

24 SECTION 2.15. Subsection (b), Section 232.0032, Local
25 Government Code, is amended to read as follows:

26 (b) The Texas [~~Natural Resource Conservation~~] Commission on
27 Environmental Quality by rule shall establish the appropriate form

1 and content of a certification to be attached to a plat application
2 under this section.

3 SECTION 2.16. Chapter 401, Local Government Code, is
4 amended by adding Section 401.006 to read as follows:

5 Sec. 401.006. IRRIGATION SYSTEMS. (a) A municipality with
6 a population of 5,000 or more by ordinance shall require an
7 installer of an irrigation system:

8 (1) to hold a license issued under Section 1903.251,
9 Occupations Code; and

10 (2) to obtain a permit before installing a system
11 within the territorial limits or extraterritorial jurisdiction of
12 the municipality.

13 (b) The ordinance shall include minimum standards and
14 specifications for designing, installing, and operating irrigation
15 systems in accordance with Section 1903.053, Occupations Code, and
16 any rules adopted by the Texas Commission on Environmental Quality
17 under that section.

18 (c) A municipality may employ or contract with a licensed
19 plumbing inspector or a licensed irrigator to enforce the
20 ordinance.

21 (d) This section does not apply to an on-site sewage
22 disposal system, as defined by Section 366.002, Health and Safety
23 Code.

24 SECTION 2.17. Subsection (b), Section 1903.053,
25 Occupations Code, is amended to read as follows:

26 (b) The commission shall ~~may~~ adopt:

27 (1) standards relating to:

1 (A) the design, installation, and operation of
2 ~~[for]~~ irrigation systems;

3 (B) [~~that include~~] water conservation; and

4 (C) the duties and responsibilities of licensed
5 irrigators; and

6 (2) rules that provide for effective enforcement of
7 those standards~~[, irrigation system design and installation, and~~
8 ~~compliance with municipal codes].~~

9 SECTION 2.18. Section 36.001, Water Code, is amended by
10 adding Subdivision (4-a) to read as follows:

11 (4-a) "Federal conservation program" means the
12 Conservation Reserve Program of the United States Department of
13 Agriculture, or any successor program.

14 SECTION 2.19. Section 36.002, Water Code, is amended to
15 read as follows:

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

26 SECTION 2.20. Section 36.113, Water Code, is amended by
27 amending Subsections (a), (c), (e), and (f) and adding Subsections

1 (h) through (l) to read as follows:

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

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

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

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

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

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

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

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

21 (7) a drought contingency plan.

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

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

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

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

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

11 (h) A district shall provide that a change in the purpose
12 and place of use under a permit that was granted for historic or
13 existing use may not be made without a permit amendment. The
14 district shall grant a permit amendment changing the purpose and
15 place of use on application of the holder of a permit that was
16 granted for historic or existing use, and the rules that apply to
17 the operation of a well under any other permit issued by the
18 district not based on historic or existing use apply to the
19 operation of the well under the amended permit.

20 (i) A district that authorizes a permit for historic or
21 existing use shall issue that type of permit based on evidence of
22 the maximum amount of water beneficially used without waste during
23 any one year before the district was created, or before the rules of
24 the district were adopted or notice of such proposed rules was
25 published and only for the purpose and amount beneficially used
26 without waste in that year.

27 (j) In issuing a permit for an existing or historic use, a

1 district may not discriminate between land that is irrigated for
2 production and land or wells on land that was irrigated for
3 production and enrolled or participating in a federal conservation
4 program.

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

6 (1) the district makes its decision in violation of
7 Subsection (j); and

8 (2) the district would have reached a different
9 decision if the district had treated land or wells on land that was
10 irrigated for production and enrolled or participating in a federal
11 conservation program the same as land irrigated for production.

12 (l) On the application of an affected owner of land or the
13 owner's lessee or assigns, the district shall reconsider a decision
14 that is void under Subsection (k) and base its decision on the equal
15 treatment of land or wells on land that was irrigated for production
16 and enrolled or participating in a federal conservation program and
17 land that is irrigated for production. Not later than the 90th day
18 after the date the district receives an application under this
19 subsection, the district shall render its decision and notify the
20 applicant of its decision.

21 SECTION 2.21. Subsection (b), Section 36.116, Water Code,
22 is amended to read as follows:

23 (b) In promulgating any rules limiting groundwater
24 production, the district may preserve historic or existing use
25 before the effective date of the rules to the maximum extent
26 practicable consistent with the district's comprehensive
27 management plan under Section 36.1071 and as provided by Section

1 36.113.

2 SECTION 2.22. (a) The changes in law made under Section
3 36.002, and Subsections (h), (i), (j), (k), and (l), Section
4 36.113, Water Code, as amended by this article, do not apply to:

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

7 (2) a renewal or amendment of a permit issued on the
8 basis of an application filed before March 1, 2005;

9 (3) a permit issued under rules in effect as of March
10 1, 2005; or

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

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

21 SECTION 2.23. Chapter 49, Subchapter J, Water Code is
22 amended by adding a new Section 49.316, as follows:

23 49.316 REGULATION OF FIREWORKS BY A MUNICIPALITY

24 (a) An annexation by a municipality under Subchapters D or
25 F, Chapter 43, Local Government Code, of a district or water supply
26 corporation, does not authorize the municipality to regulate
27 fireworks, as defined in Section 2154.001(5), Occupations Code,

1 within the annexed area.

2 (b) Notwithstanding Subsection (a), a municipality may
3 continue to regulate fireworks within:

4 (1) the area of a district or water supply corporation
5 annexed under Subchapters D or F, Chapter 43, Local Government
6 Code; or

7 (2) an area regulated under Section 217.042, Local
8 Government Code;

9 if either area was regulated prior to January 1, 2005.

10 SECTION 2.24. (a) The executive administrator of the Texas
11 Water Development Board shall conduct a study to determine the
12 effects, if any, of take-or-pay contracts on efforts to conserve
13 water.

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

17 (1) a summary of the findings made during the course of
18 the study; and

19 (2) recommendations for legislative action based on
20 those findings.

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

22 SECTION 2.25. Subsection (b), Section 11.173, Water Code,
23 as amended by this article, applies to a cancellation proceeding
24 that is pending on the effective date of this Act or is initiated on
25 or after the effective date of this Act.

26 SECTION 2.26. (a) Section 13.502, Water Code, as amended by
27 this article, applies to a request to change from submetered

1 billing to allocated billing for which the Texas Commission on
2 Environmental Quality has not issued a final decision before the
3 effective date of this Act.

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

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

16 (b) The initial installation of the water conservation
17 systems described by Subsection (a) of this section shall begin not
18 later than February 1, 2006, and shall be completed by January 1,
19 2008.

20 SECTION 2.28. (a) Not later than June 1, 2006, the Texas
21 Commission on Environmental Quality shall adopt rules as required
22 by Section 1903.053, Occupations Code, as amended by this article,
23 to take effect January 1, 2007.

24 (b) Not later than January 1, 2007, a municipality with a
25 population of 5,000 or more shall adopt an ordinance under Section
26 401.006, Local Government Code, as added by this article.

27 SECTION. 2.29. STAKEHOLDER COMMITTEE REGARDING REGULATION

1 OF GROUNDWATER UNDER STATE-OWNED LAND. (a) A statewide
2 stakeholders group designated the "State-owned Groundwater
3 Management Stakeholders Committee" to study issues regarding
4 management of groundwater underlying state-owned land shall be
5 established.

6 (b) The State-owned Groundwater Management Stakeholders
7 Committee shall be composed of 14 members with the following
8 makeup.

9 (1) three members appointed by the lieutenant
10 governor;

11 (2) three members appointed by the speaker of the
12 house;

13 (3) one member representing the permanent university
14 fund appointed by the University of Texas Board of Regents;

15 (4) one member representing the public school lands
16 appointed by the School Land Board;

17 (5) one member representing the Texas Parks and
18 Wildlife Department appointed by the Commissioners of the Texas
19 Parks and Wildlife Department;

20 (6) one member representing the Texas Department of
21 Corrections appointed by the Commissioners of the Texas Department
22 of Corrections;

23 (7) one member representing the Texas Highway
24 Department appointed by the Commissioners of the Texas Highway
25 Department;

26 (8) one member representing administrators of
27 state-owned land other than that managed by the permanent

1 university fund and the public school lands appointed by the Texas
2 Land Commissioner;

3 (9) one member representing the Texas Commission on
4 Environmental Quality appointed by the Commissioners of the Texas
5 Commission on Environmental Quality; and

6 (10) one member representing the Texas Water
7 Development Board appointed by the Texas Water Development Board.

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

9 (1) one member must represent municipalities using
10 groundwater produced from state-owned land;

11 (2) one member must represent agricultural users of
12 groundwater produced from state-owned land; and

13 (3) one member must represent industrial users of
14 groundwater produced from state-owned land.

15 (d) Of the members appointed under Subsection (b)(2):

16 (1) one member must represent municipalities using
17 groundwater produced from state-owned land;

18 (2) one member must represent agricultural users of
19 groundwater produced from state-owned land; and

20 (3) one member must represent industrial users of
21 groundwater produced from state-owned land.

22 (e) The State-owned Groundwater Management Stakeholders
23 Committee may appoint a technical advisory committee of up to 5
24 members to assist the State-owned Groundwater Management
25 Stakeholders Committee in addressing the technical aspects of the
26 issues to be studied.

27 (f) The State-owned Groundwater Management Stakeholders

1 Committee shall address the following issues:

2 (1) The appropriate management goals for groundwater
3 underlying state-owned land;

4 (2) The appropriate science to use to determine the
5 availability of groundwater under state-owned land;

6 (3) The appropriate manner to undertake and pay for
7 science to determine the availability of groundwater under
8 state-owned land:

9 (4) Whether a standard contract and standard term of
10 lease for the leasing of groundwater under state-owned lands should
11 be developed;

12 (5) Whether a standardized process for determining the
13 value of groundwater under state-owned land should be developed;

14 (6) Whether a standardized methodology for
15 determining surface damages associated with the production and
16 transportation of groundwater under state land should be developed;
17 and

18 (7) Whether a groundwater conservation district
19 should be created consisting of all state-owned land not located
20 within the boundaries of a groundwater conservation district and if
21 so investigate:

22 (i) The appropriate powers for the district;

23 (ii) The appropriate method for funding the
24 district; and

25 (iii) The method for establishing a board of
26 directors for the district;

27 (g) Report to the Legislature. The State-owned Groundwater

1 Management Stakeholders Committee shall make a report to the
2 legislature by December 1, 2006.

3 ARTICLE 3. FINANCING OF WATER PROJECTS

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

6 SUBCHAPTER O. STUDY CONCERNING FUNDING OF WATER INFRASTRUCTURE
7 DEVELOPMENT

8 Sec. 13.551. POLICY REGARDING FINANCING OF WATER
9 INFRASTRUCTURE; CREATION OF LEGISLATIVE OVERSIGHT COMMITTEE.

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

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

19 (2) Senate Bill No. 2, 77th Legislature, Regular
20 Session, 2001, provided an appropriate mechanism to fund future
21 water supply projects identified in the state water plan through
22 the water infrastructure fund;

23 (3) Senate Bill No. 3, 79th Legislature, Regular
24 Session, 2005, provides for ensuring the state's environmental flow
25 needs through an adaptive management process;

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

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

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

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

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

11 (3) evaluate public policy implications for assessing
12 a water conservation and development fee; and

13 (4) provide a source of dedicated funds for water
14 infrastructure needs for the next 50 years.

15 (c) In recognition of the importance of providing for the
16 state's water infrastructure and of the need to structure a fair and
17 reasonable funding mechanism that will fund such infrastructure,
18 there is created the Legislative Oversight Committee on Water
19 Financing.

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

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

25 (2) five members of the house of representatives
26 appointed by the speaker of the house of representatives, one of
27 whom shall be the chair of the House Natural Resources Committee.

1 (e) The position of presiding officer of the oversight
2 committee shall alternate annually between the chair of the Senate
3 Natural Resources Committee and the chair of the House Natural
4 Resources Committee. The chair of the Senate Natural Resources
5 Committee shall serve as the first presiding officer, with a term
6 beginning on September 1, 2005.

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

10 (g) The board shall provide staff support for the oversight
11 committee. The executive administrator of the board shall compile
12 and analyze for the committee's use information received by the
13 board regarding water use throughout the state, water
14 infrastructure needs throughout the state, the adequacy of current
15 funding for such infrastructure needs, and gaps in the ability to
16 fund such infrastructure.

17 (h) The oversight committee shall conduct public hearings
18 and study public policy implications for assessing a water
19 conservation and development fee as a source of dedicated funds for
20 water infrastructure development. Specifically, the oversight
21 committee shall determine how to establish and implement the fee,
22 including recommendations on:

23 (1) constitutional dedication of revenues in the water
24 infrastructure fund;

25 (2) the amount of the fee and the impact of the fee on
26 all water users;

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

1 (4) any appropriate reservations of the fee.

2 (i) The oversight committee may appoint technical
3 subcommittees, which may include persons other than the members of
4 the oversight committee. The oversight committee shall appoint a
5 technical advisory subcommittee composed of financial advisors and
6 bond counsel.

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

11 (k) The oversight committee shall adopt rules to administer
12 this section.

13 (l) The oversight committee is abolished and this
14 subchapter expires September 1, 2009.

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. Subsection (a), Section 15.973, Water Code,
21 is amended to read as follows:

22 (a) The water infrastructure fund is a special fund in the
23 state treasury to be administered by the board under this
24 subchapter and rules adopted by the board under this subchapter.
25 Money in the fund may be used to pay for the implementation of water
26 projects recommended through the state and regional water planning
27 processes under Sections 16.051 and 16.053 and for other uses

1 authorized by this subchapter.

2 SECTION 3.04. Subsection (a), Section 15.974, Water Code,
3 is amended to read as follows:

4 (a) The board may use the fund:

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

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

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

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

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

22 (6) to make transfers:

23 (A) to the state participation account and the
24 economically distressed areas program account of the Texas Water
25 Development Fund II authorized by Section 49-d-8, Article
26 III, Texas Constitution, and Subchapter L, Chapter 17, of this
27 code, to be used for the purposes authorized by those provisions,

1 provided that such transfers shall not be used to make debt service
2 or other payments on obligations the proceeds of which are placed
3 into such accounts before September 1, 2005;

4 (B) to the agricultural water conservation fund
5 authorized by Section 50-d, Article III, Texas Constitution, and
6 Subchapter J, Chapter 17, of this code, to be used for the purposes
7 authorized by those provisions, provided that such transfers shall
8 not be used to make debt service or other payments on obligations
9 the proceeds of which are placed into such fund before September 1,
10 2005;

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

15 (D) to the water assistance fund authorized by
16 Subchapter B.

17 SECTION 3.05. Section 17.172, Water Code, is amended to
18 read as follows:

19 Sec. 17.172. APPLICABILITY. This subchapter applies to
20 financial assistance made available from the water supply account,
21 the water quality enhancement account, the flood control account,
22 [~~and~~] the economically distressed areas account, and the
23 economically distressed areas program account under Subchapters D,
24 F, G, [~~and~~] K, and K-1 of this chapter.

25 SECTION 3.06. Chapter 17, Water Code, is amended by adding
26 Subchapter K-1 to read as follows:

1 SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED

2 AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

3 Sec. 17.941. DEFINITIONS. In this subchapter:

4 (1) "Economically distressed area" means an area in
5 this state in which:

6 (A) water supply or sewer services are inadequate
7 to meet minimal needs of residential users as defined by board rule;

8 (B) financial resources are inadequate to
9 provide water supply and sewer services that will satisfy those
10 needs; and

11 (C) an established residential subdivision was
12 located on June 1, 2005, as determined by the board.

13 (2) "Financial assistance" means the funds provided by
14 the board to political subdivisions for water supply or sewer
15 services under this subchapter.

16 (3) "Political subdivision" means a county, a
17 municipality, a nonprofit water supply corporation created and
18 operating under Chapter 67, or a district or authority created
19 under Section 52, Article III, or Section 59, Article XVI, Texas
20 Constitution.

21 (4) "Sewer services" and "sewer facilities" mean
22 treatment works or individual, on-site, or cluster treatment
23 systems such as septic tanks and include drainage facilities and
24 other improvements for proper functioning of the sewer services and
25 other facilities.

26 Sec. 17.942. FINANCIAL ASSISTANCE. The economically
27 distressed areas program account may be used by the board to provide

1 financial assistance to political subdivisions for the
2 construction, acquisition, or improvement of water supply and sewer
3 services, including providing money from the account for the
4 state's participation in federal programs that provide assistance
5 to political subdivisions. Money from the proceeds of bonds issued
6 under the authority of Sections 49-d-7(b) or 49-d-8, Article III,
7 Texas Constitution, may not be used to provide financial assistance
8 under this subchapter.

9 Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A
10 political subdivision may apply to the board for financial
11 assistance under this subchapter by submitting an application
12 together with a plan for providing water supply or sewer services to
13 an economically distressed area.

14 (b) The application and plan must include:

15 (1) the name of the political subdivision and its
16 principal officers;

17 (2) a citation of the law under which the political
18 subdivision operates and was created;

19 (3) a description of the existing water supply and
20 sewer facilities located in the area to be served by the proposed
21 project and include with the description a statement prepared and
22 certified by an engineer registered to practice in this state that
23 the facilities do not meet minimum state standards;

24 (4) information identifying the median household
25 income for the area to be served by the proposed project;

26 (5) a project plan prepared and certified by an
27 engineer registered to practice in this state that:

1 (A) describes the proposed planning, design, and
2 construction activities necessary for providing water supply and
3 sewer services that meet minimum state standards; and

4 (B) identifies the households to whom the
5 services will be provided;

6 (6) a budget that estimates the total cost of
7 providing water supply and sewer services to the economically
8 distressed area and a proposed schedule and method for repayment of
9 financial assistance consistent with board rules and guidelines;
10 and

11 (7) the total amount of assistance requested from the
12 economically distressed areas program account.

13 (c) A program of water conservation for the more effective
14 use of water is required for approval of an application for
15 financial assistance under this section in the same manner as such a
16 program is required for approval of an application for financial
17 assistance under Section 17.125.

18 (d) Before considering the application, the board may
19 require the applicant to:

20 (1) participate with the board in reviewing the
21 applicant's managerial, financial, or technical capabilities to
22 operate the system for which assistance is being requested;

23 (2) provide a written determination by the commission
24 of the applicant's managerial, financial, and technical
25 capabilities to operate the system for which assistance is being
26 requested;

27 (3) request that the comptroller perform a financial

1 management review of the applicant's current operations and, if the
2 comptroller is available to perform the review, provide the board
3 with the results of the review; or

4 (4) provide any other information required by the
5 board or the executive administrator.

6 Sec. 17.944. CONSIDERATIONS IN PASSING ON APPLICATION.

7 (a) In passing on an application for financial assistance, the
8 board shall consider:

9 (1) the need of the economically distressed area to be
10 served by the water supply or sewer services in relation to the need
11 of other political subdivisions requiring financial assistance
12 under this subchapter and the relative costs and benefits of all
13 applications;

14 (2) the availability of revenue or alternative
15 financial assistance for the area served by the project, from all
16 sources, for the payment of the cost of the proposed project;

17 (3) the financing of the proposed water supply or
18 sewer project, including consideration of:

19 (A) the budget and repayment schedule submitted
20 under Section 17.943(b)(6);

21 (B) other items included in the application
22 relating to financing; and

23 (C) other financial information and data
24 available to the board; and

25 (4) the feasibility of achieving cost savings by
26 providing a regional facility for water supply or wastewater
27 service and the feasibility of financing the project by using money

1 from the economically distressed areas program account or any other
2 available financial assistance.

3 (b) At the time an application for financial assistance is
4 considered, the board also must find that the area to be served by a
5 proposed project has a median household income of not more than 75
6 percent of the median state household income for the most recent
7 year for which statistics are available.

8 Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. After
9 considering the matters described by Section 17.944, the board by
10 resolution shall:

11 (1) approve the plan and application as submitted;

12 (2) approve the plan and application subject to the
13 requirements identified by the board or commission for the
14 applicant to obtain the managerial, financial, and technical
15 capabilities to operate the system and any other requirements,
16 including training under Subchapter M, the board considers
17 appropriate;

18 (3) deny the application and identify the requirements
19 or remedial steps the applicant must complete before the applicant
20 may be reconsidered for financial assistance;

21 (4) if the board finds that the applicant will be
22 unable to obtain the managerial, financial, or technical
23 capabilities to build and operate a system, deny the application
24 and issue a determination that a service provider other than the
25 applicant is necessary or appropriate to undertake the proposed
26 project; or

27 (5) deny the application.

1 Sec. 17.946. FINDINGS REGARDING PERMITS. (a) The board
2 may not release money for the construction of that portion of a
3 project that proposes surface water or groundwater development
4 until the executive administrator makes a written finding:

5 (1) that an applicant proposing surface water
6 development has the necessary water right authorizing it to
7 appropriate and use the water that the water supply project will
8 provide; or

9 (2) that an applicant proposing groundwater
10 development has the right to use water that the water supply project
11 will provide.

12 (b) The board may release money for the costs of planning,
13 engineering, architectural, legal, title, fiscal, or economic
14 investigation, studies, surveys, or designs before making the
15 finding required under Subsection (a) if the executive
16 administrator determines that a reasonable expectation exists that
17 the finding will be made before the release of funds for
18 construction.

19 (c) If an applicant includes a proposal for treatment works,
20 the board may not deliver money for the treatment works until the
21 applicant has received a permit for construction and operation of
22 the treatment works and approval of the plans and specifications
23 from the commission or unless such a permit is not required by the
24 commission.

25 Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) The
26 board may provide financial assistance to political subdivisions
27 under this subchapter by using money in the economically distressed

1 areas program account to purchase political subdivision bonds.

2 (b) The board may make financial assistance available to
3 political subdivisions in any other manner that it considers
4 feasible, including:

5 (1) contracts or agreements with a political
6 subdivision for acceptance of financial assistance that establish
7 any repayment based on the political subdivision's ability to repay
8 the assistance and that establish requirements for acceptance of
9 the assistance; or

10 (2) contracts or agreements for providing financial
11 assistance in any federal or federally assisted project or program.

12 Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) The board
13 may use money in the economically distressed areas program account
14 to provide financial assistance under this subchapter to a
15 political subdivision to be repaid in the form, manner, and time
16 provided by board rules and in the agreement between the board and
17 the political subdivision, taking into consideration the
18 information provided by Section 17.943.

19 (b) In providing financial assistance to an applicant under
20 this subchapter, the board may not provide to the applicant
21 financial assistance for which repayment is not required in an
22 amount that exceeds 50 percent of the total amount of the financial
23 assistance plus interest on any amount that must be repaid, unless
24 the Department of State Health Services issues a finding that a
25 nuisance dangerous to the public health and safety exists resulting
26 from water supply and sanitation problems in the area to be served
27 by the proposed project. The board and the applicant shall provide

1 to the Department of State Health Services information necessary to
2 make a determination, and the board and the Department of State
3 Health Services may enter into memoranda of understanding necessary
4 to carry out this subsection.

5 (c) The total amount of financial assistance provided by the
6 board to political subdivisions under this subchapter from
7 state-issued bonds for which repayment is not required may not
8 exceed at any time 90 percent of the total principal amount of
9 issued and unissued bonds authorized for purposes of this
10 subchapter.

11 (d) In determining the amount and form of financial
12 assistance and the amount and form of repayment, if any, the board
13 shall consider:

14 (1) rates, fees, and charges that the average customer
15 to be served by the project will be able to pay based on a comparison
16 of what other families of similar income who are similarly situated
17 pay for comparable services;

18 (2) sources of funding available to the political
19 subdivision from federal and private money and from other state
20 money;

21 (3) any local money of the political subdivision to be
22 served by the project if the economically distressed area to be
23 served by the board's financial assistance is within the boundary
24 of the political subdivision; and

25 (4) the just, fair, and reasonable charges for water
26 and wastewater service as provided by this code.

27 (e) In making its determination under Subsection (d)(1),

1 the board may consider any study, survey, data, criteria, or
2 standard developed or prepared by any federal, state, or local
3 agency, private foundation, banking or financial institution, or
4 other reliable source of statistical or financial data or
5 information.

6 SECTION 3.07. Subsection (c), Section 17.958, Water Code,
7 is amended to read as follows:

8 (c) Money on deposit in the economically distressed areas
9 program account may be used by the board for purposes provided by
10 Subchapter K or K-1 in the manner that the board determines
11 necessary for the administration of the fund.

12 SECTION 3.08. Subsection (i), Section 15.407, and
13 Subsection (b), Section 15.974, Water Code, are repealed.

14 ARTICLE 4. CREATION OF VICTORIA COUNTY GROUNDWATER CONSERVATION
15 DISTRICT

16 SECTION 4.01. Subtitle H, Title 6, Special District Local
17 Laws Code, is amended by adding Chapter 8812 to read as follows:

18 CHAPTER 8812. VICTORIA COUNTY GROUNDWATER

19 CONSERVATION DISTRICT

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Sec. 8812.001. DEFINITIONS. In this chapter:

22 (1) "Board" means the board of directors of the
23 district.

24 (2) "Director" means a member of the board.

25 (3) "District" means the Victoria County Groundwater
26 Conservation District.

27 Sec. 8812.002. NATURE OF DISTRICT. The district is a

1 groundwater conservation district in Victoria County created under
2 and essential to accomplish the purposes of Section 59, Article
3 XVI, Texas Constitution.

4 Sec. 8812.003. CONFIRMATION ELECTION REQUIRED. If the
5 creation of the district is not confirmed at a confirmation
6 election held before September 1, 2010:

7 (1) the district is dissolved on September 1, 2010,
8 except that:

9 (A) any debts incurred shall be paid;

10 (B) any assets that remain after the payment of
11 debts shall be transferred to Victoria County; and

12 (C) the organization of the district shall be
13 maintained until all debts are paid and remaining assets are
14 transferred; and

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

16 Sec. 8812.004. INITIAL DISTRICT TERRITORY. The initial
17 boundaries of the district are coextensive with the boundaries of
18 Victoria County, Texas.

19 Sec. 8812.005. APPLICABILITY OF OTHER GROUNDWATER
20 CONSERVATION DISTRICT LAW. Except as otherwise provided by this
21 chapter, Chapter 36, Water Code, applies to the district.

22 [Sections 8812.006-8812.020 reserved for expansion]

23 SUBCHAPTER A-1. TEMPORARY PROVISIONS

24 Sec. 8812.021. APPOINTMENT OF TEMPORARY DIRECTORS.

25 (a) Not later than the 10th day after September 1, 2005, the
26 Victoria County Commissioners Court shall appoint five temporary
27 directors as follows:

1 (1) one temporary director shall be appointed from
2 each of the four commissioner precincts in the county to represent
3 the precinct in which the temporary director resides; and

4 (2) one temporary director who resides in the district
5 shall be appointed to represent the district at large.

6 (b) If there is a vacancy on the temporary board of
7 directors of the district, the remaining temporary directors shall
8 select a qualified person to fill the vacancy. If, at any time,
9 there are fewer than three qualified temporary directors, the
10 Victoria County Commissioners Court shall appoint the necessary
11 number of persons to fill all vacancies on the board.

12 (c) To be eligible to serve as a temporary director, a
13 person must be a resident of Victoria County and at least 18 years
14 of age.

15 (d) Temporary directors serve until the earlier of:

16 (1) the time the temporary directors become initial
17 directors as provided by Section 8812.024; or

18 (2) the date this chapter expires under Section
19 8812.003.

20 Sec. 8812.022. ORGANIZATIONAL MEETING OF TEMPORARY
21 DIRECTORS. As soon as practicable after all the temporary
22 directors have qualified under Section 36.055, Water Code, a
23 majority of the temporary directors shall convene the
24 organizational meeting of the district at a location within the
25 district agreeable to a majority of the directors. If an agreement
26 on location cannot be reached, the organizational meeting shall be
27 at the Victoria County Courthouse. At the meeting, the temporary

1 directors shall elect a chair, vice chair, and secretary from among
2 the temporary directors.

3 Sec. 8812.023. CONFIRMATION ELECTION. (a) Not later than
4 the 30th day after September 1, 2005, the temporary board shall
5 order an election to be held not later than the 120th day after
6 September 1, 2005, to confirm the creation of the district.

7 (b) Section 41.001(a), Election Code, does not apply to a
8 confirmation election held as provided by this section.

9 (c) The ballot for the election must be printed to permit
10 voting for or against the following proposition: "The creation of
11 the Victoria County Groundwater Conservation District and the
12 imposition of an ad valorem tax in the district at a rate not to
13 exceed two cents for each \$100 of assessed valuation."

14 (d) The temporary board may include any other proposition on
15 the ballot that it considers necessary.

16 (e) Except as provided by this section, a confirmation
17 election must be conducted as provided by Section 36.017(b)-(i),
18 Water Code, and the Election Code. The provision of Section
19 36.017(d), Water Code, relating to the election of permanent
20 directors does not apply to a confirmation election under this
21 section.

22 (f) If the creation of the district is not confirmed at a
23 confirmation election held under this section, the board may hold
24 another confirmation election not sooner than the first anniversary
25 of the most recent confirmation election.

26 Sec. 8812.024. INITIAL DIRECTORS. (a) If creation of the
27 district is confirmed at an election held under Section 8812.023,

1 the temporary directors of the district become the initial
2 directors of the district and serve on the board of directors until
3 permanent directors are elected under Section 8812.025.

4 (b) The directors for county commissioner precincts one and
5 three serve until the first regularly scheduled election of
6 directors under Section 8812.025. The directors for precincts two
7 and four and the director at large serve until the second regularly
8 scheduled election of directors under Section 8812.025.

9 Sec. 8812.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
10 the uniform election date prescribed by Section 41.001, Election
11 Code, in November of the first even-numbered year after the year in
12 which the creation of the district is confirmed at an election held
13 under Section 8812.023, an election shall be held in the district
14 for the election of two directors to replace the initial directors
15 who, under Section 8812.024(b), serve until that election.

16 Sec. 8812.026. EXPIRATION OF SUBCHAPTER. This subchapter
17 expires September 1, 2013.

18 [Sections 8812.027-8812.050 reserved for expansion]

19 SUBCHAPTER B. BOARD OF DIRECTORS

20 Sec. 8812.051. DIRECTORS; TERMS. (a) The district is
21 governed by a board of five directors.

22 (b) Directors serve staggered four-year terms.

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

27 (b) One director shall be elected by the voters of the

1 entire district, and one director shall be elected from each county
2 commissioners precinct by the voters of that precinct.

3 (c) Except as provided by Subsection (e), to be eligible to
4 be a candidate for or to serve as director at large, a person must be
5 at least 18 years of age and a resident of the district. To be a
6 candidate for or to serve as director from a county commissioners
7 precinct, a person must be at least 18 years of age and a resident of
8 that precinct.

9 (d) A person shall indicate on the application for a place
10 on the ballot:

11 (1) the precinct that the person seeks to represent;
12 or

13 (2) that the person seeks to represent the district at
14 large.

15 (e) When the boundaries of the county commissioners
16 precincts are redrawn after each federal decennial census to
17 reflect population changes, a director in office on the effective
18 date of the change, or a director elected or appointed before the
19 effective date of the change whose term of office begins on or after
20 the effective date of the change, shall serve in the precinct to
21 which elected or appointed even though the change in boundaries
22 places the person's residence outside the precinct for which the
23 person was elected or appointed.

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

1 Sec. 8812.054. VACANCIES. A vacancy on the board shall be
2 filled by appointment of the board until the next regularly
3 scheduled directors' election. The person appointed to fill the
4 vacancy shall serve only for the remainder of the unexpired term.

5 [Sections 8812.055–8812.100 reserved for expansion]

6 SUBCHAPTER C. POWERS AND DUTIES

7 Sec. 8812.101. PROHIBITION ON DISTRICT USE OF EMINENT
8 DOMAIN. The district may not exercise the power of eminent domain.

9 [Sections 8812.102–8812.150 reserved for expansion]

10 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

11 Sec. 8812.151. LIMITATION ON TAXES. The district may not
12 impose ad valorem taxes at a rate that exceeds two cents on each
13 \$100 of assessed valuation of taxable property in the district.

14 SECTION 4.02. Chapter 1332, Acts of the 77th Legislature,
15 Regular Session, 2001, is repealed.

16 SECTION 4.03. (a) The legal notice of the intention to
17 introduce this article, setting forth the general substance of this
18 article, has been published as provided by law, and the notice and a
19 copy of the substance of this article have been furnished to all
20 persons, agencies, officials, or entities to which they are
21 required to be furnished under Section 59, Article XVI, Texas
22 Constitution, and Chapter 313, Government Code.

23 (b) The governor has submitted the notice and substance of
24 this article to the Texas Commission on Environmental Quality.

25 (c) The Texas Commission on Environmental Quality has filed
26 its recommendations relating to the substance of this article with
27 the governor, lieutenant governor, and speaker of the house of

1 representatives within the required time.

2 (d) All requirements of the constitution and laws of this
3 state and the rules and procedures of the legislature with respect
4 to the notice, introduction, and passage of this article are
5 fulfilled and accomplished.

6 ARTICLE 5. EDWARDS AQUIFER AUTHORITY

7 SECTION 5.01. Subsection (f), Section 1.11, Chapter 626,
8 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
9 read as follows:

10 (f) The authority may own, finance, design, ~~[contract with a~~
11 ~~person who uses water from the aquifer for the authority or that~~
12 ~~person to]~~ construct, operate, or ~~[own, finance, and]~~ maintain
13 recharge [water supply] facilities or contract with a person who
14 uses water from the aquifer for the authority or that person to own,
15 finance, design, construct, operate or maintain recharge
16 facilities. ~~[Management fees or special fees may not be used for~~
17 ~~purchasing or operating these facilities.]~~ For the purpose of this
18 subsection, "recharge [water supply] facility" means ~~[includes]~~ a
19 dam, reservoir, ~~[treatment facility, transmission facility,]~~ or
20 other method of recharge project and associated facilities,
21 structures, or works.

22 SECTION 5.02. Subsections (a), (c), (f), and (h), Section
23 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session,
24 1993, are amended to read as follows:

25 (a) Authorizations to withdraw water from the aquifer and
26 all authorizations and rights to make a withdrawal under this Act
27 shall be limited in accordance with this section to:

- 1 (1) protect the water quality of the aquifer;
- 2 (2) protect the water quality of the surface streams
3 to which the aquifer provides springflow;
- 4 (3) achieve water conservation;
- 5 (4) maximize the beneficial use of water available for
6 withdrawal from the aquifer;
- 7 (5) recognize the hydro-geologic connection and
8 interaction between surface and groundwater;
- 9 (6) protect aquatic and wildlife habitat;
- 10 (7) [~~(6)~~] protect species that are designated as
11 threatened or endangered under applicable federal or state law; and
- 12 (8) [~~(7)~~] provide for instream uses, bays, and
13 estuaries.

14 (c) Except as provided by Subsections [~~(d)~~] (f) [~~7~~] and (h)
15 of this section [~~and Section 1.26 of this article,~~] for the period
16 beginning January 1, 2005 [~~2008~~], the amount of permitted
17 withdrawals from the aquifer may not exceed the sum of all regular
18 permits issued or for which an application has been filed and
19 issuance is pending action by the authority as of January 1, 2005.
20 If annexation occurs, the amount of permitted withdrawals may be
21 adjusted to include permits issued for wells in the annexed area as
22 of January 1, 2005 [~~400,000 acre-feet of water for each calendar~~
23 ~~year~~].

24 (f) If the level of the aquifer is equal to or greater than
25 665 [~~650~~] feet above mean sea level as measured at well J-17, the
26 authority may authorize withdrawal from the San Antonio pool, on an
27 uninterrupted basis, of permitted amounts. If the level of the

1 aquifer is equal to or greater than 845 feet at well J-27, the
2 authority may authorize withdrawal from the Uvalde pool, on an
3 uninterrupted basis, of permitted amounts. In accordance with
4 Section 1.26 of this article, the [~~The~~] authority shall limit the
5 additional withdrawals to ensure that springflows are not affected
6 during critical drought conditions.

7 (h) To accomplish the purposes of this article, [~~by June 1,~~
8 ~~1994,~~] the authority, through a program, shall implement and
9 enforce water management practices, procedures, and methods to
10 ensure that, not later than December 31, 2012, the continuous
11 minimum springflows of the Comal Springs and the San Marcos Springs
12 are maintained to protect endangered and threatened species to the
13 extent required by federal law and to achieve other purposes
14 provided by Subsection (a) of this section and Section 1.26 of this
15 article. The authority from time to time as appropriate may revise
16 the practices, procedures, and methods. To meet this requirement,
17 the authority shall require:

18 (1) phased reductions in the amount of water that may
19 be used or withdrawn by existing users or categories of other users,
20 including the authority's critical period management plan
21 established under Section 1.26 of this article; or

22 (2) implementation of alternative management
23 practices, procedures, and methods.

24 SECTION 5.03. Subsection (c), Section 1.15, Chapter 626,
25 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
26 read as follows:

27 (c) The authority may issue regular permits, term permits,

1 and emergency permits. Except as provided in Section 1.14(f) and
2 Section 1.26 of this article, regular permits may not be issued on
3 an interruptible basis, and the total withdrawals authorized by all
4 regular permits issued by the authority may not exceed the
5 limitations provided by Section 1.14 of this article.

6 SECTION 5.04. Subsection (b), Section 1.19, Chapter 626,
7 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
8 read as follows:

9 (b) Withdrawal of water under a term permit must be
10 consistent with the authority's critical period management plan
11 established under Section 1.26 of this article. A holder of a term
12 permit may not withdraw water from the San Antonio pool of the
13 aquifer unless the level of the aquifer is higher than 675 [665]
14 feet above sea level, as measured at Well J-17, and the flow at
15 Comal Springs as determined by Section 1.26(c) is greater than 350
16 cfs.

17 SECTION 5.05. Article 1, Chapter 626, Acts of the 73rd
18 Legislature, Regular Session, 1993, is amended by amending Section
19 1.26 and adding Section 1.26A to read as follows:

20 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After
21 review of the recommendations received, as prescribed in Section
22 1.26A of this article, the [The] authority shall prepare and
23 coordinate implementation of a [plan for] critical period
24 management plan in a manner consistent with Section 1.14(a) [on or
25 before September 1, 1995]. The mechanisms must:

26 (1) distinguish between discretionary use and
27 nondiscretionary use;

1 (2) require reductions of all discretionary use to the
2 maximum extent feasible;

3 (3) require utility pricing, to the maximum extent
4 feasible, to limit discretionary use by the customers of water
5 utilities; and

6 (4) require reduction of nondiscretionary use by
7 permitted or contractual users, to the extent further reductions
8 are necessary, in the reverse order of the following water use
9 preferences:

- 10 (A) municipal, domestic, and livestock;
- 11 (B) industrial and crop irrigation;
- 12 (C) residential landscape irrigation;
- 13 (D) recreational and pleasure; and
- 14 (E) other uses that are authorized by law.

15 (b) In this subsection, "MSL" means the elevation, measured
16 in feet, of the surface of the water in a well above mean sea level,
17 and "CFS" means cubic feet per second. Not later than January 1,
18 2006, the authority shall, by rule, adopt and enforce a critical
19 period management plan with withdrawal reduction percentages at no
20 less than the amounts indicated in Tables 1 and 2 whether according
21 to the index well levels or Comal Springs flow as may be applicable,
22 for a maximum total in critical period Stage IV of 40 percent of the
23 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</u>	<u>WELL</u>	<u>COMAL SPRINGS</u>	<u>CRITICAL</u>	<u>WITHDRAWAL</u>
<u>J-17 LEVEL</u>	<u>MSL</u>	<u>FLOW CFS</u>	<u>PERIOD</u>	<u>STAGE</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</u>	<u>WELL</u>	<u>J-27 MSL</u>	<u>CRITICAL</u>	<u>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>
<u><842</u>			<u>IV</u>		<u>15%</u>

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

(d) Beginning September 1, 2005, the authority shall not

1 allow the volume of permitted withdrawals to exceed an annualized
2 rate of 340,000 acre-feet, under critical period Stage IV.

3 (e) After January 1, 2012, the authority shall not allow the
4 volume of permitted withdrawals to exceed an annualized rate of
5 320,000 acre-feet, under critical period Stage IV, unless, after
6 review and consideration of recommendations received by the
7 authority under Section 1.26A of this article and consultation with
8 the appropriate state and federal agencies, the authority
9 determines that a different volume of withdrawals is consistent
10 with Section 1.14(a) of this article in maintaining protection for
11 protected and endangered species to the extent required by federal
12 law.

13 (f) From time to time, the authority by rule may amend the
14 withdrawal reduction criteria of the authority's critical period
15 management plan as set forth in Subsections (b), (c), and (e) after
16 review and consideration of the recommendations from the
17 Environmental Flows Commission, the Edwards Aquifer Area expert
18 science team, and the Edwards Aquifer Area Stakeholders Committee,
19 as prescribed in Section 1.26A of this article. The amended plan
20 must be consistent with Section 1.14(a) of this article.

21 Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND
22 STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) The Environmental
23 Flows Commission, as established under Section 11.0236, Water Code,
24 shall appoint a 15-member Edwards Aquifer Area Stakeholders
25 Committee not later than January 1, 2006. The composition of the
26 committee will be as follows:

27 (1) five Municipal Edwards Aquifer permit holders;

- 1 (2) two Irrigation Edwards Aquifer permit holders;
2 (3) three Industrial Edwards Aquifer permit holders;
3 (4) two Downstream Water Rights holders in the
4 Guadalupe River Basin;
5 (5) two Downstream Water Rights holders in the Nueces
6 River Basin; and
7 (6) one representative of a public interest group
8 related to instream flows in the Guadalupe River Basin and bay and
9 estuary inflows from the Guadalupe River.

10 (b) The Edwards Aquifer Area Stakeholders Committee shall
11 appoint a seven-member Edwards Aquifer Area expert science team not
12 later than April 30, 2006. The expert science team must be composed
13 of technical experts with special expertise regarding the Edwards
14 Aquifer system, spring flows, or the development of withdrawal
15 limitations. Chapter 2110, Government Code, does not apply to the
16 size, composition, or duration of the expert science team. A member
17 of the Texas Environmental Flows science advisory committee
18 established in Section 11.02361, Water Code, shall serve as liaison
19 to the Edwards Aquifer Area expert science team.

20 (c) The expert science team shall develop an analysis of
21 spring discharge rates and aquifer levels as a function of
22 withdrawal levels. Based upon this analysis and the required
23 elements to be considered by the authority in Section 1.14 of this
24 article, the Edwards Aquifer Area expert science team shall,
25 through a collaborative process designed to achieve consensus,
26 create recommendations for withdrawal reduction levels and stages
27 for critical period management including, if appropriate,

1 establishing separate and different withdrawal levels and critical
2 period management rules for different pools of the aquifer and
3 submit them to the Edwards Aquifer Area Stakeholders Committee, the
4 Environmental Flows Commission, and the authority. The initial
5 recommendations must be completed and submitted no later than
6 September 30, 2006.

7 (d) In developing its recommendations, the Edwards Aquifer
8 Area expert science team must consider all reasonably available
9 science, including any Edwards Aquifer specific studies, and the
10 recommendations must be based solely on the best science available.
11 The Edwards Aquifer Area Stakeholders Committee may not change the
12 recommendations of the Edwards Aquifer Area expert science team
13 regarding the withdrawal limitations appropriate to achieve the
14 purposes of Section 1.14 of this article.

15 (e) The Edwards Aquifer Area Stakeholders Committee shall
16 review the withdrawal limitation and critical period management
17 recommendations submitted by the expert science team and shall
18 consider them in conjunction with other factors, including the
19 present and future needs for water for other uses related to water
20 supply planning in the Edwards Aquifer Area and the required
21 elements to be considered by the authority in Section 1.14 of this
22 article. The stakeholders committee shall develop recommendations
23 regarding a critical period management plan and submit its
24 recommendations to the authority and to the Environmental Flows
25 Commission. In developing its recommendations, the stakeholders
26 committee shall operate on a consensus basis to the maximum extent
27 possible. The initial recommendations must be completed and

1 submitted no later than October 31, 2006.

2 (f) The Environmental Flows Commission shall submit to the
3 authority its comments on and recommendations regarding the Edwards
4 Aquifer Area expert science team's recommended withdrawal
5 reduction levels and stages for critical period management needed
6 to maintain target spring discharge and aquifer levels. The
7 withdrawal reduction recommendations shall be based upon a
8 combination of spring discharge rates of the San Marcos and Comal
9 Springs and levels at the J-17 and J-27 wells.

10 (g) The Edwards Aquifer Area expert science team, Edwards
11 Aquifer Area Stakeholders Committee, and the Environmental Flows
12 Commission shall submit recommendations to the authority for use in
13 developing its rules relative to establishing the critical period
14 management plan.

15 (h) Where reasonably practicable, meetings of the Edwards
16 Aquifer Area expert science team and Edwards Aquifer Area
17 Stakeholders Committee must be open to the public.

18 (i) In recognition of the importance of critical period
19 management to adapt to changed conditions or information, after
20 submitting its recommendations regarding withdrawal limitations
21 and strategies to meet the spring flow needs to the authority, the
22 stakeholders committee, with the assistance of the expert science
23 team, shall prepare and submit to the Environmental Flows
24 Commission a work plan. The work plan must:

25 (1) establish a periodic review of the critical period
26 management plan, to occur at least once every five years;

27 (2) prescribe specific monitoring, studies, and

1 activities; and

2 (3) establish a schedule for continuing the validation
3 or refinement of the critical period management plan adopted by the
4 authority, and the strategies to achieve the plan.

5 (j) To assist the flows commission to assess the extent to
6 which the recommendations of the Edwards Aquifer Area expert
7 science team are considered and implemented, the authority shall
8 provide written reports to the flows commission, at intervals
9 determined by the flows commission, that describe:

10 (1) the actions taken in response to each
11 recommendation; and

12 (2) for each recommendation not implemented, the
13 reason it was not implemented.

14 SECTION 5.06. Subsections (b) and (i), Section 1.29,
15 Section 626, Acts of the 73rd Legislature, Regular Session, 1993,
16 are amended to read as follows:

17 (b) The authority shall assess equitable aquifer management
18 fees based on aquifer use under the water management plan to finance
19 its administrative expenses and programs authorized under this
20 article. Each water district governed by Chapter 36 [~~52~~], Water
21 Code, that is within the authority's boundaries may contract with
22 the authority to pay expenses of the authority through taxes in lieu
23 of user fees to be paid by water users in the district. The contract
24 must provide that the district will pay an amount equal to the
25 amount that the water users in the district would have paid through
26 user fees. The authority may not collect a total amount of fees and
27 taxes that is more than is reasonably necessary for the

1 administration of the authority.

2 (i) The authority shall provide money as necessary, but not
3 to exceed \$75,000, annually adjusted for changes in the consumer
4 price index [~~five percent of the money collected under Subsection~~
5 ~~(d) of this section~~], to finance the South Central Texas Water
6 Advisory Committee's administrative expenses and programs
7 authorized under this article.

8 SECTION 5.07. Subsection (a), Section 1.45, Chapter 626,
9 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
10 read as follows:

11 (a) The authority may own, finance, design, construct,
12 [~~build or~~] operate, and maintain recharge dams and associated
13 facilities, structures, or works in the contributing or recharge
14 area of the aquifer if the recharge is made to increase the yield of
15 the aquifer and the recharge project does not impair senior water
16 rights or vested riparian rights.

17 SECTION 5.08. The following sections of Chapter 626, Acts
18 of the 73rd Legislature, Regular Session, 1993, are repealed:

19 (1) Subsections (b) and (d), Section 1.14;

20 (2) Section 1.21; and

21 (3) Subsections (a), (c), (d), and (h), Section 1.29.

22 SECTION 5.09. Section 1.29, Chapter 626, Acts of the 73rd
23 Legislature, Regular Session, 1993 is amended by adding Subsection
24 (j) to read as follows:

25 (j) BUDGETARY ADVISORY COMMITTEE. The authority shall
26 appoint a budgetary advisory committee no later than September 30,
27 2005 to consult and advise the authority on budget matters,

1 including aquifer management fees and bonding authority issues.
2 Each voting member of the authority board shall appoint one member
3 of the committee.

4 ARTICLE 6. CREATION OF VAL VERDE COUNTY

5 GROUNDWATER CONSERVATION DISTRICT

6 SECTION 6.01. DEFINITIONS. In this article:

7 (1) "Board" means the board of directors of the
8 district.

9 (2) "Director" means a member of the board.

10 (3) "District" means the Val Verde County Groundwater
11 Conservation District.

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

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

19 (b) The district is created under and is essential to
20 accomplish the purposes of Section 59, Article XVI, Texas
21 Constitution.

22 (c) All of the land and other property included within the
23 boundaries of the district will be benefited by the works and
24 projects that are to be accomplished by the district under powers
25 conferred by Section 59, Article XVI, Texas Constitution.

26 SECTION 6.04. CONTINUING PROVISIONS OF DISTRICT. Subtitle
27 H, Title 6, Special District Local Laws Code, is amended by adding

1 Chapter 8804 to read as follows:

2 CHAPTER 8804. VAL VERDE COUNTY GROUNDWATER

3 CONSERVATION DISTRICT

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 8804.001. DEFINITIONS. In this chapter:

6 (1) "Agricultural use" means any use or activity
7 involving agriculture, including irrigation.

8 (2) "Agriculture" means any of the following
9 activities:

10 (A) cultivating the soil to produce crops for
11 human food, animal feed, or planting seed or for the production of
12 fibers;

13 (B) the practice of floriculture, viticulture,
14 silviculture, and horticulture, including the cultivation of
15 plants in containers of nonsoil media, by a nursery grower;

16 (C) raising, feeding, or keeping animals, other
17 than fish, for breeding purposes or for the production of food or
18 fiber, leather, pelts, or other tangible products having a
19 commercial value;

20 (D) planting cover crops, including cover crops
21 cultivated for transplantation, or leaving land idle for the
22 purpose of participating in any governmental program or normal crop
23 or livestock rotation procedure;

24 (E) wildlife management; and

25 (F) raising or keeping equine animals.

26 (3) "Board" means the board of directors of the
27 district.

1 (4) "Director" means a member of the board.

2 (5) "District" means the Val Verde County Groundwater
3 Conservation District.

4 (6) "Domestic use" means use in the district of water
5 by a person owning the well from which the water is withdrawn and by
6 that person's household for:

7 (A) drinking, washing, or culinary purposes;

8 (B) irrigation of lawns;

9 (C) irrigation of a family garden or orchard the
10 produce of which is for household consumption only;

11 (D) swimming pools, decorative ponds, or
12 fountains on the person's property; and

13 (E) watering of domestic animals not raised,
14 maintained, or sold for commercial purposes.

15 (7) "Political subdivision" means a county,
16 municipality, or other body politic or corporate of the state,
17 including a district or authority created under Section 52, Article
18 III, or Section 59, Article XVI, Texas Constitution, a state
19 agency, or a nonprofit water supply corporation created under
20 Chapter 67, Water Code.

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

24 Sec. 8804.003. DISTRICT PURPOSE. The district is created
25 to:

26 (1) provide for the protection, recharging, and
27 prevention of waste of groundwater in Val Verde County;

1 (2) control subsidence caused by the withdrawal of
2 water from the groundwater reservoirs in Val Verde County;

3 (3) regulate the transport of groundwater out of the
4 boundaries of the district;

5 (4) manage the issuance of permits for the transfer of
6 groundwater by requiring groundwater availability models of permit
7 applicants; and

8 (5) protect water quality.

9 [Sections 8804.004-8804.050 reserved for expansion]

10 SUBCHAPTER B. TERRITORY

11 Sec. 8804.051. BOUNDARIES. The boundaries of the district
12 are coextensive with the boundaries of Val Verde County, Texas.

13 [Sections 8804.052-8804.100 reserved for expansion]

14 SUBCHAPTER C. BOARD OF DIRECTORS

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

17 Sec. 8804.102. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
18 PRECINCTS. (a) The directors of the district shall be elected
19 according to the commissioners precinct method as provided by this
20 section.

21 (b) Three directors shall be elected by the voters of the
22 entire district, and one director shall be elected from each county
23 commissioners precinct by the voters of that precinct.

24 (c) Except as provided by Subsection (e), to be eligible to
25 be a candidate for or to serve as director at large, a person must be
26 a registered voter in the district. To be a candidate for or to
27 serve as director from a county commissioners precinct, a person

1 must be a registered voter of that precinct.

2 (d) A person shall indicate on the application for a place
3 on the ballot:

4 (1) the precinct that the person seeks to represent;
5 or

6 (2) that the person seeks to represent the district at
7 large.

8 (e) When the boundaries of the county commissioners
9 precincts are redrawn after each federal decennial census to
10 reflect population changes, a director in office on the effective
11 date of the change, or a director elected or appointed before the
12 effective date of the change whose term of office begins on or after
13 the effective date of the change, shall serve in the precinct from
14 which elected or appointed even if the change in boundaries places
15 the person's residence outside the precinct from which the person
16 was elected or appointed.

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

21 Sec. 8804.104. TERMS. (a) Directors serve staggered
22 four-year terms.

23 (b) A director may serve for consecutive terms.

24 Sec. 8804.105. COMPENSATION. (a) A director is not
25 entitled to receive fees of office for performing the duties of a
26 director.

27 (b) The board may authorize a director to receive

1 reimbursement for the director's reasonable expenses incurred
2 while engaging in activities outside the district on behalf of the
3 board.

4 [Sections 8804.106-8804.150 reserved for expansion]

5 SUBCHAPTER D. POWERS AND DUTIES

6 Sec. 8804.151. POWERS AND DUTIES. Except as otherwise
7 provided by this chapter, the district has all of the rights,
8 powers, privileges, authority, functions, and duties provided by
9 the general law of this state, including Chapter 36, Water Code,
10 applicable to groundwater conservation districts created under
11 Section 59, Article XVI, Texas Constitution.

12 Sec. 8804.152. PERMIT TO TRANSFER GROUNDWATER. (a) The
13 district by rule shall:

14 (1) require a person to obtain a permit from the
15 district to transfer groundwater out of the district; and

16 (2) regulate the terms of a transfer of groundwater
17 out of the district.

18 (b) The district shall develop rules under this section that
19 are consistent with the requirements of Section 36.122, Water Code.

20 (c) The district shall use a groundwater availability
21 model, and not historical use, as the basis for issuing permits.

22 (d) A permit issued under this section, except for a permit
23 issued under Section 8804.153(a), does not establish historical
24 use.

25 (e) In the event of a conflict between the information
26 provided by the groundwater study conducted under Section 8804.161
27 and the recommendations submitted under Section 8804.164 regarding

1 the minimum flow requirements for any spring in the district, the
2 determination of the Texas Water Development Board study under
3 Section 8804.161 controls for purposes of development of rules
4 under this section.

5 Sec. 8804.153. PERMITS FOR USE SOLELY INSIDE DISTRICT. (a)
6 The district shall grant the City of Del Rio a permit in the city's
7 name that authorizes the city to pump from all city wells a stated
8 cumulative amount of not less than 15,000 acre-feet of water
9 annually for use solely inside the district. If the study performed
10 under Section 8804.162 finds that sufficient groundwater is
11 available, the district shall amend the city's permit to authorize
12 the city to pump from all city wells a stated cumulative amount of
13 not less than 20,000 acre-feet of water annually for use solely
14 inside the district. This subsection does not limit the City of Del
15 Rio's right to apply for or obtain a permit to transfer groundwater
16 under Section 8804.152.

17 (b) The district shall grant to a nonprofit rural water
18 supply corporation, water district, or other political subdivision
19 a permit that authorizes the water supply corporation, water
20 district, or other political subdivision to pump from its wells
21 annually a volume of water that is not less than the volume equal to
22 twice its greatest water usage in a calendar year before the date
23 the district is confirmed at an election held for that purpose, for
24 use solely inside the district.

25 Sec. 8804.154. AGRICULTURAL USE PERMIT. (a) Except as
26 provided by Section 8804.155, the district shall grant any
27 application for an agricultural use permit for any well that is used

1 solely for agricultural use inside the district. The district
2 shall issue an agricultural use permit in an amount that is not less
3 than five acre-feet of water per acre actually cultivated per year.
4 An agricultural use permit is nontransferable and expires on the
5 date the well ceases to be used solely for agricultural use inside
6 the district.

7 (b) This section does not limit the well owner's right to
8 apply for or obtain a permit to transfer groundwater under Section
9 8804.152.

10 Sec. 8804.155. LIMITATION ON WELL PERMIT REQUIREMENTS. (a)
11 The district may not require a person to obtain a permit from the
12 district for:

13 (1) a well used solely for domestic use or for
14 providing water for livestock or poultry on a tract of land smaller
15 than 10 acres that is either drilled, completed, or equipped so that
16 it is incapable of producing more than 30,000 gallons of
17 groundwater a day;

18 (2) a well used solely for domestic use or for
19 providing water for livestock or poultry on a tract of land 10 acres
20 or larger that is either drilled, completed, or equipped so that it
21 is incapable of producing more than 50,000 gallons of groundwater a
22 day; or

23 (3) any well in use before the date the district is
24 confirmed at an election held for that purpose and used solely for
25 agricultural use.

26 (b) The district shall require a permit for a well described
27 by Subsection (a)(3) that ceases to be used solely for agricultural

1 use. The district also may impose a fee on the well as provided by
2 Section 8804.202(c)(1)(A).

3 (c) An owner of a well described by this section shall
4 register the well with the district.

5 (d) A well owner is entitled to a permit exemption under
6 this section only if water from the well is used solely inside the
7 district. If water from a well is not used solely inside the
8 district, the well owner must obtain a permit.

9 Sec. 8804.156. REPLACEMENT WELL. (a) A new well that
10 replaces an abandoned or decommissioned well is subject to the same
11 permit requirements or exemption as the well it replaces if the
12 replacement well:

13 (1) is used solely for the same purposes as the well it
14 replaces; and

15 (2) serves the same area as the well it replaces.

16 (b) The district may not require a person who repairs or
17 modifies a well to obtain a permit for that well if the well:

18 (1) is exempt under Section 8804.155; and

19 (2) continues to be used solely for agricultural use.

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

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

26 Sec. 8804.159. REGIONAL COOPERATION. To provide for
27 regional continuity, the district shall:

1 (1) participate as needed in coordination meetings
2 with other groundwater conservation districts in its designated
3 management area;

4 (2) coordinate the collection of data with other
5 groundwater conservation districts in its designated management
6 area in such a way as to achieve relative uniformity of data type
7 and quality;

8 (3) coordinate efforts to monitor water quality with
9 other groundwater conservation districts in its designated
10 management area, local governments, and state agencies;

11 (4) provide groundwater level data to other
12 groundwater conservation districts in its designated management
13 area;

14 (5) investigate any groundwater or aquifer pollution
15 with the intention of locating its source;

16 (6) notify other groundwater conservation districts
17 in its designated management area and all appropriate agencies of
18 any groundwater pollution detected; and

19 (7) include other groundwater conservation districts
20 in its designated management area on the mailing lists for district
21 newsletters, seminars, public education events, news articles, and
22 field days.

23 Sec. 8804.160. WATER CONSERVATION INITIATIVE. The district
24 may create a water conservation initiative as described by Section
25 11.32, Tax Code.

26 Sec. 8804.161. TEXAS WATER DEVELOPMENT BOARD STUDY. At
27 least once every 10 years and at any other time the board considers

1 necessary to implement Section 8804.152, the staff of the Texas
2 Water Development Board shall make a complete study of the
3 groundwater in the district and determine:

- 4 (1) the water level;
5 (2) the rates and amounts of groundwater withdrawal;
6 (3) the rates and amounts by which the groundwater is
7 recharged;
8 (4) rainwater levels; and
9 (5) other information relating to the groundwater
10 availability of the aquifer.

11 Sec. 8804.162. LOCAL STUDY OF GROUNDWATER AVAILABILITY.

12 (a) Except as provided by Subsection (b), not later than the 10th
13 anniversary of the date on which the district is confirmed, the
14 district shall complete a study to determine whether there is
15 sufficient groundwater to amend the permit granted under Section
16 8804.153(a) to the City of Del Rio as authorized by Section
17 8804.153(a).

18 (b) In place of the district's study, the City of Del Rio may
19 perform a study of the groundwater availability in the district and
20 the board shall rely on the city's study if the city's study meets
21 the criteria of the Texas Water Development Board study required by
22 Section 8804.161 and the Texas Water Development Board study has
23 not been completed or is otherwise unavailable.

24 Sec. 8804.163. MORATORIUM ON TRANSFER PERMITS. (a) Except
25 as provided by Subsection (d), the district shall impose a
26 moratorium on the issuance of permits for the transfer of
27 groundwater during each period set aside to conduct and consider a

1 groundwater study under Section 8804.161.

2 (b) Except for the initial study, the district by rule shall
3 specify the length of the period set aside to conduct and consider
4 groundwater studies under Section 8804.161.

5 (c) The district may not issue a permit for the transfer of
6 groundwater until:

7 (1) an initial groundwater study under Section
8 8804.161 is completed and submitted to the district; and

9 (2) the spring flow and groundwater availability
10 advisory panel makes a determination under Section 8804.164 of the:

11 (A) flow of each spring in the district; and

12 (B) groundwater availability in the district.

13 (d) The board by emergency order may issue a permit during a
14 moratorium on the affirmative vote of at least five directors.

15 Sec. 8804.164. SPRING FLOW AND GROUNDWATER AVAILABILITY
16 ADVISORY PANEL. (a) Not later than the 90th day after the date on
17 which the first permanent directors are elected, the board shall
18 appoint a spring flow and groundwater availability advisory panel
19 to determine the minimum spring flow of each spring and the
20 groundwater availability in the district and recommend to the board
21 the maximum groundwater withdrawal rate that should be permitted by
22 the district to achieve or maintain at least those minimum flows and
23 that groundwater availability.

24 (b) The advisory panel shall be composed of the following
25 members:

26 (1) two members who represent the City of Del Rio;

27 (2) two members who represent agricultural interests

1 and each own a minimum of 5,000 acres of land in the district;

2 (3) two members who represent the interests of and are
3 riparian landowners in the district;

4 (4) one member who represents rural water suppliers;

5 (5) one member who represents environmental
6 interests; and

7 (6) one member who represents a water marketing group,
8 or, if the board is unable to locate a person to represent water
9 marketing, a member appointed by the board.

10 (c) The panel shall develop and submit to the board
11 recommendations for limitations on groundwater withdrawal rates
12 consistent with maintaining minimum spring flows and groundwater
13 availability. In developing the recommendations, the panel shall
14 consider:

15 (1) the results of the Texas Water Development Board
16 study required by Section 8804.161 and the findings of any other
17 study presented to the panel;

18 (2) the best available science;

19 (3) the water level;

20 (4) the rate and amount of groundwater withdrawal;

21 (5) the rate and amount of groundwater recharge;

22 (6) underflow from outside the district;

23 (7) information related to the availability of
24 groundwater in the district for withdrawal;

25 (8) spring discharge rates as a function of
26 groundwater withdrawal rates;

27 (9) historical data;

1 (10) drought period management; and
2 (11) other factors required to be considered by the
3 board.

4 (d) The district shall provide the panel with:

5 (1) any information the district has that is relevant
6 to the work and purpose of the panel; and

7 (2) any support necessary to determine spring flows
8 and groundwater availability in the district.

9 (e) The board shall review the recommendations submitted by
10 the advisory panel under Subsection (c) and shall consider them in
11 conjunction with other factors, including the present and future
12 needs for water related to water supply planning in Val Verde
13 County.

14 (f) The board may accept or reject the advisory panel's
15 recommendations, but the board may not change the determination of
16 the panel regarding the limitations on groundwater withdrawal rates
17 necessary to achieve or maintain at least the minimum spring flows
18 and groundwater availability.

19 [Sections 8804.165-8804.200 reserved for expansion]

20 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

21 Sec. 8804.201. LIMITATION ON TAXES. (a) The district may
22 not levy ad valorem taxes at a rate that exceeds five cents on each
23 \$100 of assessed valuation of taxable property in the district.

24 (b) The district may not levy ad valorem taxes at a rate that
25 exceeds 2-1/2 cents on each \$100 of assessed valuation of taxable
26 property in the district for the first two tax years after the
27 district's confirmation.

1 (c) Not later than the seventh anniversary of the date on
2 which the district is confirmed, the district shall maintain in
3 reserve at all times not less than six months and not more than two
4 years of operating capital. If the district's reserve operating
5 capital at any time exceeds the amount needed to operate the
6 district for two years, the district must:

7 (1) reduce taxes so as not to collect more revenue than
8 is needed to operate the district; or

9 (2) perform a recharge project with the excess
10 revenue.

11 Sec. 8804.202. FEES. (a) The board by rule may impose
12 reasonable fees on each well:

13 (1) for which a permit is issued by the district; and

14 (2) that is not exempt from district regulation.

15 (b) A production fee may be based on:

16 (1) the size of column pipe used by the well; or

17 (2) the amount of water actually withdrawn from the
18 well, or the amount authorized or anticipated to be withdrawn.

19 (c) The board shall base the initial production fee on the
20 criteria listed in Subsection (b)(2). The initial production fee:

21 (1) may not exceed:

22 (A) \$0.25 per acre-foot for water used for
23 agricultural irrigation; or

24 (B) \$0.0425 per thousand gallons for water used
25 for any other purpose; and

26 (2) may be increased at a cumulative rate not to exceed
27 three percent per year.

1 (d) In addition to the production fee authorized under this
2 section, the district may assess an export fee on groundwater from a
3 well that is produced for transport outside the district.

4 (e) Fees authorized by this section may be:

5 (1) assessed annually or monthly; and

6 (2) used to pay the cost of district operations.

7 Sec. 8804.203. EXEMPTION FROM FEES. (a) Except as provided
8 by Subsection (b), the district may not impose a fee on a well
9 drilled by a nonprofit rural water supply corporation, water
10 district, or other political subdivision if the well's production
11 is for use within the district.

12 (b) The district by emergency order of the board may impose
13 a reasonable and temporary production fee on a well described by
14 Subsection (a) if:

15 (1) at least five of the directors approve the
16 emergency order;

17 (2) severe drought or another district emergency makes
18 the fee necessary; and

19 (3) the term of the order does not exceed 180 days.

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

22 (1) the Val Verde County Commissioners Court shall
23 appoint one temporary director from each of the four commissioners
24 precincts in the county to represent the precinct in which the
25 temporary director resides;

26 (2) the county judge of Val Verde County shall appoint
27 one temporary director who resides in the district to represent the

1 district at large; and

2 (3) the Del Rio City Council shall appoint two
3 temporary directors, each of whom resides in the district, to
4 represent the district at large.

5 (b) Of the temporary directors appointed under Subsections
6 (a)(1) and (2) of this section, at least one director must represent
7 rural water suppliers in the district, one must represent
8 agricultural interests in the district, one must represent
9 industrial interests in the district, and one must represent
10 municipal water suppliers.

11 (c) If there is a vacancy on the temporary board of
12 directors of the district, the authority who appointed the
13 temporary director whose position is vacant shall appoint a person
14 to fill the vacancy in a manner that meets the representational
15 requirements of this section.

16 (d) Temporary directors serve until the earliest of the
17 date:

18 (1) temporary directors become initial directors as
19 provided by Section 6.09 of this article;

20 (2) the confirmation election under Section 6.08 of
21 this article fails to pass; or

22 (3) this article expires under Section 6.13.

23 SECTION 6.06. LIMITED POWERS AND DUTIES OF TEMPORARY BOARD
24 OF DIRECTORS. (a) The temporary board may only:

25 (1) hold an election under Section 6.08 of this
26 article;

27 (2) manage the day-to-day governance of the district;

1 (3) make administrative and nondiscretionary
2 decisions; and

3 (4) establish temporary fees under Section 36.206,
4 Water Code.

5 (b) The temporary board does not have rulemaking or
6 permitting authority.

7 (c) Any procedures, fees, or policies established by the
8 temporary board are subject to ratification by the permanent
9 directors elected under Section 6.10 of this article.

10 SECTION 6.07. ORGANIZATIONAL MEETING OF TEMPORARY
11 DIRECTORS. As soon as practicable after all the temporary
12 directors have qualified under Section 36.055, Water Code, a
13 majority of the temporary directors shall convene the
14 organizational meeting of the district at a location within the
15 district agreeable to a majority of the directors. If no location
16 can be agreed upon, the organizational meeting shall be at the Val
17 Verde County Courthouse.

18 SECTION 6.08. CONFIRMATION ELECTION. (a) The temporary
19 directors shall hold an election to confirm the creation of the
20 district.

21 (b) Section 41.001(a), Election Code, does not apply to a
22 confirmation election held as provided by this section.

23 (c) Except as provided by this section, a confirmation
24 election must be conducted as provided by Sections 36.017(b)-(i),
25 Water Code, and the Election Code.

26 (d) The district may hold a subsequent confirmation
27 election if the previous confirmation election fails to pass. A

1 subsequent confirmation election may not be held sooner than one
2 year after the date of the previous confirmation election.

3 (e) The confirmation election ballot shall be printed to
4 permit voting for or against the proposition: "To create the Val
5 Verde County Groundwater Conservation District and to authorize the
6 district to impose an ad valorem tax at a rate not to exceed 2.5
7 cents for each \$100 valuation of all taxable property in the
8 district for the first two tax years after the district's
9 confirmation and at a rate not to exceed 5 cents for each \$100
10 valuation of all taxable property in the district after the second
11 tax year."

12 (f) If a majority of the voters voting at a confirmation
13 election under this section do not vote in favor of the ballot
14 proposition, the proposition fails and the temporary board is
15 dissolved. The authorities that appointed the temporary board may
16 agree to establish a new temporary board in the manner provided by
17 Section 6.05 of this article. A person who served on the original
18 or a subsequent temporary board is eligible to serve on another
19 temporary board. Each temporary board has the duties and powers
20 provided by this section and Sections 6.06 and 6.07 of this article.

21 (g) If the establishment of the district is not confirmed at
22 an election held under this section before September 1, 2010, the
23 district is dissolved, except that:

24 (1) any debts incurred shall be paid;

25 (2) any assets that remain after the payment of debts
26 shall be transferred to Val Verde County; and

27 (3) the organization of the district shall be

1 maintained until all debts are paid and remaining assets are
2 transferred.

3 SECTION 6.09. INITIAL DIRECTORS. (a) If creation of the
4 district is confirmed at an election held under Section 6.08 of this
5 article, the temporary directors of the district become the initial
6 directors of the district and serve on the board of directors until
7 permanent directors are elected under Section 6.10 of this article.

8 (b) The initial directors have the powers and duties of the
9 temporary directors under Sections 6.06(a)(2)-(4), (b), and (c) of
10 this article, and shall hold an election for permanent directors
11 under Section 6.10 of this article.

12 SECTION 6.10. ELECTION OF PERMANENT DIRECTORS. (a) The
13 initial directors serve until the first regularly scheduled
14 election of directors under Subsection (b) of this section.

15 (b) On the uniform election date prescribed by Section
16 41.001, Election Code, in November of the first even-numbered year
17 after the year in which the district is authorized to be created at
18 a confirmation election, an election shall be held in the district
19 for the election of seven directors. The elected directors shall
20 draw lots to determine which three directors shall serve terms
21 lasting until the first regularly scheduled election under Section
22 8804.103, Special District Local Laws Code, as added by this
23 article, and which four shall serve until the second regularly
24 scheduled directors election.

25 SECTION 6.11. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

26 (a) The legal notice of the intention to introduce this article,
27 setting forth the general substance of this article, has been

1 published as provided by law, and the notice and a copy of this
2 article have been furnished to all persons, agencies, officials, or
3 entities to which they are required to be furnished under Section
4 59, Article XVI, Texas Constitution, and Chapter 313, Government
5 Code.

6 (b) The governor has submitted the notice and article to the
7 Texas Commission on Environmental Quality.

8 (c) The Texas Commission on Environmental Quality has filed
9 its recommendations relating to this article with the governor, the
10 lieutenant governor, and the speaker of the house of
11 representatives within the required time.

12 (d) All requirements of the constitution and laws of this
13 state and the rules and procedures of the legislature with respect
14 to the notice, introduction, and passage of this article are
15 fulfilled and accomplished.

16 SECTION 6.12. STUDY COMPLETION. Not later than the last day
17 of the 18th month after the month in which the district is confirmed
18 at an election held for that purpose, the Texas Water Development
19 Board shall complete the initial study required by Section
20 8804.161, Special District Local Laws Code, as added by this
21 article, and deliver the findings of the study to the board.

22 SECTION 6.13. EXPIRATION. (a) If the creation of the
23 district is not confirmed at a confirmation election held under
24 Section 6.08 of this article before September 1, 2010, this article
25 expires on that date.

26 (b) The expiration of this article does not affect the
27 liability of the district to pay any debt incurred or the transfer

1 of any assets remaining to Val Verde County as required by Section
2 6.08(g) of this article.

3 ARTICLE 7. EFFECTIVE DATE

4 SECTION 7.01. Except as otherwise provided by this Act,
5 this Act takes effect September 1, 2005.