

By: Madla, et al. S.B. No. 352  
(In the Senate - Filed February 4, 2005; February 15, 2005,  
read first time and referred to Committee on Natural Resources;  
April 11, 2005, reported adversely, with favorable Committee  
Substitute by the following vote: Yeas 11, Nays 0; April 11, 2005,  
sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 352 By: Madla

A BILL TO BE ENTITLED  
AN ACT

relating to the management of state-owned land, including the lease  
of the right to produce groundwater from certain state-owned land.

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

SECTION 1. Subchapter D, Chapter 11, Natural Resources  
Code, is amended by adding Section 11.087 to read as follows:

Sec. 11.087. PROHIBITION ON EXPORTATION OF GROUNDWATER  
PRODUCED FROM STATE-OWNED LAND. A person may not export from this  
state to a foreign country groundwater produced from state-owned  
land.

SECTION 2. Section 32.012, Natural Resources Code, is  
amended by amending Subsection (a) and adding Subsection (d) to  
read as follows:

(a) The board is composed of:

(1) the commissioner;  
(2) a citizen of the state appointed by the governor  
with the advice and consent of the senate; ~~and~~

(3) a citizen of the state appointed by the attorney  
general with the advice and consent of the senate;

(4) a citizen of the state appointed by the lieutenant  
governor; and

(5) a citizen of the state appointed by the governor  
with the advice and consent of the senate from a list of nominees  
submitted by the speaker of the house of representatives.

(d) In making an appointment under Subsection (a)(5), the  
governor may reject one or more of the nominees on a list submitted  
by the speaker of the house of representatives and request a new  
list of different nominees.

SECTION 3. Section 51.121, Natural Resources Code, is  
amended by adding Subsections (f) and (g) to read as follows:

(f) Notwithstanding Subsection (a), the commissioner may  
not lease unsold public school land under this subchapter for a term  
of more than 10 years or for an indefinite term unless the board  
approves the lease.

(g) Notwithstanding Subsection (a), the commissioner may  
not lease the right to produce groundwater from unsold public  
school land. A lease of the right to produce groundwater from  
unsold public school land is governed by Section 51.132.

SECTION 4. Subchapter D, Chapter 51, Natural Resources  
Code, is amended by adding Section 51.132 to read as follows:

Sec. 51.132. LEASE OF RIGHT TO PRODUCE GROUNDWATER.

(a) The board may lease the right to produce groundwater from  
unsold public school land only as provided by this section. The  
other provisions of this subchapter apply to leases entered into  
under this section to the extent those provisions do not conflict  
with this section or Section 51.121(g).

(b) The board shall adopt clear and detailed rules governing  
the lease of the right to produce groundwater from unsold public  
school land. The rules must require:

(1) each regional water planning group and groundwater  
conservation district in whose jurisdiction the land is located to  
be notified when the board receives a proposal to lease the right to  
produce groundwater from the land;

(2) the lease contract to be negotiated by the board;

(3) the lessee to comply with:

(A) the rules and permitting requirements of any groundwater conservation district in which the land is located; and

(B) all state and local laws and rules;

(4) the right to produce groundwater from land to be leased separately from oil and gas rights; and

(5) a lease proposal submitted by a political subdivision of this state to include a letter of interest, approved by the governing body of the political subdivision, that includes:

(A) an estimated total daily and annual amount of water to be produced under the lease;

(B) any requirements of the political subdivision regarding water quality;

(C) a time frame for delivery of the water;

(D) an estimated delivered price for the water;  
and

(E) a statement that the political subdivision commits to act in compliance with all state and local laws and rules.

(c) Before filing notice of the proposed rules with the secretary of state for publication in the Texas Register, the board must notify the attorney general, Parks and Wildlife Department, Texas Commission on Environmental Quality, Texas Water Development Board, and Department of Agriculture and each member of the legislature that notice of the proposed rules will be published.

(d) A lease of the right to produce groundwater from unsold public school land must be awarded through competitive bidding unless:

(1) the lessee is a political subdivision of this state or an end user of the water; or

(2) the lease entitles the lessee to produce less than 125,000 gallons of water per day.

SECTION 5. Subchapter C, Chapter 66, Education Code, is amended by adding Section 66.46 to read as follows:

Sec. 66.46. LEASE OF RIGHT TO PRODUCE GROUNDWATER. A lease of the right to produce groundwater from lands set aside and appropriated to, or acquired by, the permanent university fund must be awarded through competitive bidding unless:

(1) the lessee is a political subdivision of this state or an end user of the water; or

(2) the lease entitles the lessee to produce less than 125,000 gallons of water per day.

SECTION 6. Subsections (c) and (e), Section 16.053, Water Code, are amended to read as follows:

(c) No later than 60 days after the designation of the regions under Subsection (b), the board shall designate representatives within each regional water planning area to serve as the initial coordinating body for planning. The initial coordinating body may then designate additional representatives to serve on the regional water planning group. The initial coordinating body shall designate additional representatives if necessary to ensure adequate representation from the interests comprising that region, including the public, counties, municipalities, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, river authorities, water districts, and water utilities. The regional water planning group shall maintain adequate representation from those interests. In addition, representatives of the board, the Parks and Wildlife Department, and the Department of Agriculture shall serve as ex officio members of each regional water planning group. If a regional water planning area includes land dedicated to the permanent university fund, the executive director of University Lands--West Texas Operations serves as a nonvoting member of the regional water planning group for that area.

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

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

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

provided by the board under Subsection (d);

(3) identifies:

(A) each source of water supply in the regional water planning area in accordance with the guidelines provided by the board under Subsections (d) and (f);

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

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

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

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

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

(B) certified groundwater conservation district management plans and other plans submitted under Section 16.054;

(C) all potentially feasible water management strategies, including but not limited to improved conservation, reuse, and management of existing water supplies, acquisition of available existing water supplies, and development of new water supplies, including, if appropriate, groundwater produced from land dedicated to the permanent school fund or permanent university fund;

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

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

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

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

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

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

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

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

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

SECTION 7. The lieutenant governor and the governor shall make appointments to the School Land Board under Section 32.012, Natural Resources Code, as amended by this Act, as soon as possible after the effective date of this Act. Each member's term expires August 31, 2007.

SECTION 8. This Act takes effect September 1, 2005.

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