

BILL ANALYSIS

Senate Research Center

S.B. 3
By: Averitt
Natural Resources
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law recognizes the importance of maintaining the biological soundness of the state's rivers, lakes, bays, and estuaries to the public's economic health and general well-being. The Texas Water Code requires the Texas Commission on Environmental Quality (TCEQ), while balancing all other interests, to consider and provide for the freshwater inflows necessary to maintain the viability of the state's bay and estuary systems in TCEQ's regular granting of permits for the use of state waters. However, current law does not address environmental flows nor does it provide for an expedited amendment process or give preference to projects with a conservation plan when awarding state aid.

S.B. 3 creates a basin-by-basin process for developing recommendations to meet instream needs as well as freshwater inflows to affected bays and estuaries and requires TCEQ to adopt recommendations in the form of environmental flow standards. Such standards would be utilized in the decision-making process for new water right applications and in establishing an amount of unappropriated water, if available, to be set aside for the environment.

Furthermore, this bill creates the Environmental Flows Advisory Group (advisory group) to oversee the process. The advisory group is required to conduct hearings and study public policy implications for balancing the demands on water resources of the state resulting from a growing population with the requirements of the state's rivers and bay systems. The advisory group must also submit a biennial report to the governor, lieutenant governor, and the speaker of the house of representatives regarding its findings and progress.

Additionally, S.B. 3 establishes an expedited amendment process for regional water plans and modifies the voting structure of groundwater management areas to ensure that this statute does not encourage the creation of single-county groundwater conservation districts. S.B. 3 provides that priority be given to entities seeking financial assistance from the state for water infrastructure projects that can provide proof of implementation of a conservation plan, designates certain sites as uniquely situated for the building of reservoirs, and creates a joint interim committee to review financing of water infrastructure projects and funding for water programs administered by state agencies.

This bill creates a 23-member Water Conservation Advisory Council to monitor the development and implementation of water conservation strategies and authorizes irrigation water rights owned by water districts, other than a drainage district, in the Lower Rio Grande region that cover counties adjacent to Mexico and the Gulf of Mexico or adjacent to such a county to be converted from irrigation water rights to municipal water rights for use by municipal suppliers in the region and details the conversion process in a uniform manner for the Lower Rio Grande region. This bill requires the Texas Water Development Board, in coordination with the Far West Texas Water Planning Group, to conduct a study on the impact of climate change on surface water. The bill also requires the board to submit a written report regarding its findings to the legislature.

S.B. 3 establishes criteria for unique reservoir designations, providing that a site is considered to have unique value for the construction of a reservoir if the site is recommended for designation in the 2007 State Water Plan by the Texas Water Development Board.

This bill also changes the requirements for the administration and operation of the Edwards Aquifer Authority, including changing the calculation used for determining withdrawal limits from the Edwards Aquifer and the requirements related to the number of acre-feet of groundwater rights to be retired.

Finally, this bill provides for the succession of the La Joya Water Supply Corporation by the Agua Special Utility District; creates the True Ranch Municipal Utility District No. 1 of Hays County to be located entirely in Hays County; creates the Tablerock Groundwater Conservation District in Coryell County; and clarifies the boundaries of the Culberson County Groundwater Conservation District.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Environmental Flows Advisory Group in SECTION 1.07 (Section 11.0236, Water Code) of this bill.

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1.14 (Section 11.1471, Water Code), SECTION 2.18 (Section 16.402, Water Code), and SECTION 2.34 (Section 1903.053, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Water Development Board in SECTION 2.14 (Section 16.053, Water Code) and SECTION 2.18 (Section 16.402, Water Code) of this bill.

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission [Texas Commission on Environmental Quality] in SECTION 2.07 (Section 13.188, Water Code) and SECTION 2.28 (Section 341.042, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Texas Natural Resource Conservation Commission [Texas Commission on Environmental Quality] is modified in SECTION 2.24 (Sections 49.503 and 49.506, Water Code) of this bill.

Rulemaking authority previously granted to the Texas Natural Resource Conservation Commission is transferred to the Texas Commission on Environmental Quality in SECTION 2.29 (Section 212.0101, Local Government Code) and SECTION 2.30 (Section 232.0032, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

[While some of the statutory references in this bill are to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

ARTICLE 1. ENVIRONMENTAL FLOWS

SECTION 1.01 Amends the heading to Section 5.506, Water Code, to read as follows:

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

SECTION 1.02. Amends Section 5.506, Water Code, by adding Subsection (a-1) and amending Subsections (b) and (c), as follows:

(a-1) Authorizes state water that is set aside by the Texas Commission on Environmental Quality (TCEQ) to meet the needs for freshwater inflows to affected bays, estuaries, and instream uses under Section 11.1471(a)(2) to be made available temporarily for other essential beneficial uses if TCEQ finds that an emergency exists that cannot practically be resolved in another way.

(b) Requires TCEQ to give written notice of the proposed action, rather than suspension, to the Texas Parks and Wildlife Department (TPWD) before TCEQ suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1). Requires TCEQ to give TPWD an opportunity to submit comments on the proposed action, rather than suspension, for a period of 72 hours from receipt of the notice and

requires TCEQ to consider those comments before issuing an order implementing the proposed action, rather than imposing suspension.

(c) Authorizes TCEQ to suspend a permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) without notice except as required by Subsection (b).

SECTION 1.03. Amends Section 5.701(j), Water Code, to provide that a fee is not required for a water right that is deposited into the Texas Water Trust. Deletes existing text that waives the fee for applications for instream-use water rights.

SECTION 1.04. Amends Section 11.002, Water Code, by adding Subdivisions (15)-(19) to define "environmental flow analysis," "environmental flow regime," "environmental flow standards," "advisory group," and "science advisory committee."

SECTION 1.05. Amends Section 11.023(a), Water Code, to authorize state water to be appropriated, stored, or diverted for certain uses, to the extent that state water has not been set aside by TCEQ under Section 11.1471(a)(2) to meet downstream instream flow needs or freshwater inflow needs.

SECTION 1.06. Amends Section 11.0235, Water Code, by amending Subsections (b), (c), and (e) and adding Subsections (d-1)-(d-6) and (f), as follows:

(b) Provides that the legislature encourages voluntary water and land stewardship to benefit the water in the state, as defined by Section 26.001.

(c) Provides that the legislature has expressly required the Texas Natural Resource Conservation Commission (TNRCC), while balancing all other public interests, to consider and, to the extent practicable, provide for the freshwater inflows and instream flows necessary to maintain the validity of the state's stream, rivers, and bay and estuary systems in TNRCC's regular granting of permits for the use of state waters. Requires all permit conditions relating to freshwater inflows to affected bays, estuaries, and instream flow needs, as an essential part of the state's environmental flows policy, to be subject to temporary suspension if necessary for water to be applied to essential beneficial uses during emergencies.

(d-1) Provides that existing water rights that are amended to authorize use for environmental purposes should be enforced in a manner consistent with the enforcement of water rights for other purposes as provided by the laws of this state governing the appropriation of state water.

(d-2) Requires the state to have a process with specific timelines for prompt action to address environmental flow issues in the state's major basin and bay systems, especially those systems in which unappropriated water is still available, based on legislative findings that provide certainty in water management and development and provide adequate protection of the state's streams, rivers, bays, and estuaries.

(d-3) Sets forth legislative findings regarding basins in which water is available for appropriation and those in which the unappropriated water will be set aside for instream flow and freshwater inflow protection and recommendations for TNRCC's plan of action.

(d-4) Sets forth legislative findings regarding limitations on freshwater inflow needs for bays and estuaries, proposed state improvements, and more extensive reviews and examinations of program details.

(d-5) Sets forth legislative findings regarding the management of water to meet instream flow and freshwater inflow needs, to be evaluated on a regular basis and adapted to reflect scientific improvements and future changes, and the development of management strategies for specific environmental flow needs.

(d-6) Sets forth legislative findings regarding recommendations for state action to protect instream flows and freshwater inflows through a regional consensus-based approach involving balanced representation throughout the state.

(e) Provides that pressures and demands on water resources require priorities to be effectively addressed by detailing the manner in which environmental flow standards are to be developed using the environmental studies and determine the manner in which those standards will be integrated into the regional water planning and water permitting process.

(f) Sets forth legislative recognition that effective implementation of the approach provided by this chapter (Water Rights) for protecting instream flows and freshwater inflows will require more effective water rights administration and enforcement systems than are currently available in most areas of the state.

SECTION 1.07. Amends Subchapter B, Chapter 11, Water Code, by adding Sections 11.0236, 11.02361, 11.02362, and 11.0237, as follows:

Sec. 11.0236. ENVIRONMENTAL FLOWS ADVISORY GROUP. (a) Creates the environmental flows advisory group (advisory group).

(b) Sets forth the composition of the nine-member advisory group.

(c) Requires the three members of the advisory group appointed by the governor to be appointed from certain entities.

(d) Provides that each member of the advisory group serves at the will of the person who appointed the member.

(e) Provides that the appointed senator with the most seniority and the appointed house member with the most seniority serve together as co-presiding officers of the advisory group.

(f) Entitles a member of the advisory group to reimbursement of the travel expenses incurred by the member while conducting the business of the advisory group, as provided by the General Appropriations Act, but prohibits a member of the advisory group from receiving compensation for any other service on the advisory group.

(g) Authorizes the advisory group to accept gifts and grants from any source to be used to carry out a function of the advisory group.

(h) Requires TNRCC to provide staff support for the advisory group.

(i) Requires the advisory group to conduct public hearings and study public policy implications for certain purposes and other issues that the advisory group determines have importance and relevance to the protection of environmental flows. Requires the advisory group, in evaluating the options for providing adequate environmental flows, to take notice of the strong public policy imperative that exists in this state regarding environmental flows. Requires the advisory group to specifically address ways that the ecological soundness of riverine, bay, and estuary systems will be ensured in the water rights administration and enforcement and water allocation processes and appropriate methods to encourage persons voluntarily to convert reasonable amounts of existing water rights to use for environmental flow protection temporarily or permanently.

(j) Authorizes the advisory group to adopt rules, procedures, and policies as needed to administer this section, to implement its responsibilities, and to exercise its authority under Sections 11.02361 and 11.02362.

(k) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the advisory group.

(l) Requires the advisory group to issue and promptly deliver to the governor, lieutenant governor, and speaker of the house of representatives by December 1, 2008, and every two years thereafter, copies of a report summarizing certain information.

(m) Abolishes the advisory group on the date that TNRCC has adopted environmental flow standards under Section 11.1471 for all of the river basin and bay systems in this state.

Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE ADVISORY COMMITTEE. (a) Provides that the Texas environmental flows science advisory committee (science advisory committee) consists of at least five, but not more than nine, members appointed by the advisory group.

(b) Requires the advisory group to appoint persons who will provide an objective perspective and diverse technical experience in certain fields pertinent to the evaluation of environmental flows to the science advisory committee.

(c) Provides that the members of the science advisory committee serve five-year terms expiring March 1. Provides that a vacancy on the science advisory committee is filled by appointment by the co-presiding officers of the advisory group for the unexpired term.

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

(e) Requires the science advisory committee to serve as an objective scientific body to advise and make recommendations to the advisory group on issues relating to the science of environmental flow protection and develop recommendations to help overall direction, coordination, and consistency relating to specific issues concerning environmental flows.

(f) Requires TNRCC, TPWD, and the Texas Water Development Board (TWDB), in order to assist the advisory group in assessing the extent to which the recommendations of the science advisory committee are considered and implemented, to provide written reports to the advisory group, at intervals determined by the advisory group, that describe the actions taken by each agency in response to each recommendation and, for those recommendations not implemented, the reasons for it not being implemented.

(g) Abolishes the science advisory committee on the date the advisory group is abolished under Section 11.0236(m).

Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME RECOMMENDATIONS. (a) Requires the advisory group, no later than November 1, 2007, and for the purposes of this section, to define the geographical extent of each river basin and bay system in the state for the purpose of developing environmental flow regime recommendations under this section and adoption of environmental flow standards under Section 11.1471.

(b) Requires the advisory group to give priority in descending order to the following river basin and bay systems of the state for the purpose of developing environmental flow regime recommendations and adopting environmental flow standards:

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

(2) the river basin and bay system consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the river basin and bay system consisting of the Guadalupe, San Antonio, Mission, and Aransas Rivers, and Mission, Copano, Aransas, and San Antonio Bays; and

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

(c) Requires that for the river basin and bay systems listed in Subsection (b)(1):

(1) the advisory group appoint the basin and bay area stakeholders committee not later than November 1, 2007;

(2) the basin and bay area stakeholders committee establish a basin and bay expert team not later than March 1, 2008;

(3) the basin and bay expert science team finalize environmental flow regime recommendations and submit them to the basin and bay area stakeholders committee, the advisory group, and TNRCC not later than March 1, 2009, except that at the request of the basin and bay area stakeholders committee for good cause shown, the advisory group is authorized to extend the deadline provided by this subdivision;

(4) the basin and bay area stakeholders committee submit to TNRCC its comments on and recommendations regarding the basin and bay expert science team's recommended environmental flow regime not later than September 1, 2009; and

(5) TNRCC adopt the environmental flow standards as provided by Section 11.1471 not later than September 1, 2010.

(d) Requires the advisory group to appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(2), not later than September 1, 2008, and for the river basin and bay systems listed in Subsection (b)(3) not later than September 1, 2009. Requires the advisory group to establish a schedule for the performance of the tasks listed in Subsection (c)(2)-(5) with regard to the river basin and bay systems listed in Subsections (b)(2) and (3) that will result in the adoption of environmental flow standards for that river basin and bay system by TNRCC, as soon as is reasonably possible. Requires each basin and bay area stakeholders committee and basin and bay expert science team for a river basin and bay system listed in Subsection (b)(2) or (3) to make recommendations to the advisory group with regard to the schedule applicable to that river basin and bay system. Requires the advisory group to consider the recommendations of the basin and bay area stakeholders committee and basin and bay expert science team, as well as coordinate with, and give appropriate consideration to the recommendations of, TNRCC, TPWD, and TWDB in establishing the schedule.

(e) Requires the advisory group, for a river basin and bay system or a river basin that does not have an associated bay system in this state not listed in Subsection (b), to establish a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards. Requires the advisory group to develop the schedule in consultation with TNRCC, TPWD, TWDB, and the pertinent basin and bay area stakeholders committee and basin and bay area expert science team. Authorizes the advisory group, on its own

initiative or on request, to modify a schedule established under this subsection to be more responsive to particular circumstances, local desires, changing conditions, or time-sensitive conflicts. Provides that this subsection does not prohibit an effort to develop information on environmental flow needs and ways in which those needs can be met by a voluntary consensus-building process, in a river basin and bay system for which the advisory group has not yet established a schedule for the development of environmental flow regime recommendations.

(f) Requires the advisory group to appoint a basin and bay area stakeholders committee for each river basin and bay system in this state for which a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards is specified by or established under Subsection (c), (d), or (e). Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay area stakeholders committee. Requires each committee to consist of at least 17 members that reflect a fair and equitable balance of interest groups concerned with the particular river basin and bay system for which the committee is established and be representative of appropriate stakeholders, including certain stakeholders if they have a presence in the particular river basin and bay system for which the committee is established.

(g) Provides that members of a basin and bay area stakeholders committee serve five-year terms expiring March 1. Requires the remaining members of the committee, if a vacancy occurs on a committee, to appoint a member to serve the remainder of the unexpired term by majority vote.

(h) Requires that meetings of a basin and bay area stakeholders committee be open to the public.

(i) Requires each basin and bay area stakeholders committee to establish a basin and bay expert science team for the river basin and bay system for which the committee is established. Requires establishment of the basin and bay expert science team within six months of committee establishment. Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay expert science team. Requires each basin and bay expert science team to be composed of technical experts with special expertise in the river basin and bay system or regarding the development of environmental flow regimes. Authorizes a person to serve as a member of more than one basin and bay expert science team at the same time.

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

(k) Requires the science advisory committee to appoint one of its members to serve as a liaison to each basin and bay expert science team to facilitate coordination and consistency in environmental flow activities throughout the state. Requires TNRCC, TPWD, and TWDB to provide technical assistance to each basin and bay expert science team including information about the studies conducted under Sections 16.058 (Collection of Bays and Estuaries Data: Conduct of Studies) and 16.059 (Collection of Instream Flow Data: Conduct of Studies), and authorizes said state entities to serve as nonvoting members of the basin and bay expert science team to facilitate the development of environmental flow regime recommendations.

(l) Requires that meetings of a basin and bay expert science team, where reasonably practicable, be open to the public.

(m) Requires each basin and bay expert science team to develop environmental flow analyses and a recommended environmental flow regime for the river basin

and bay system for which the team is established through a collaborative process designed to achieve a consensus. Requires the science team, in developing the analyses and recommendations, to consider all reasonably available science, without regard to the need for the water for other uses, and requires the recommendations to be based solely on the best science available. Requires the basin and bay expert science team environmental flow regime recommendations for the Rio Grande below Fort Quitman to exclude any uses attributable to Mexican water flows.

(n) Requires each basin and bay expert science team to submit its environmental flow analyses and environmental flow regime recommendations to the pertinent basin and bay area stakeholders committee, the advisory group, and TCEQ in accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e). Prohibits the basin and bay area stakeholders committee and the advisory group from changing the environmental flow analyses or environmental flow regime recommendations of the basin and bay expert science team.

(o) Requires each basin and bay stakeholders committee to review the environmental flow analyses and environmental flow regime recommendations submitted by the committee's basin and bay expert science team and consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the pertinent river basin and bay system. Requires the basin and bay area stakeholders committee for the Rio Grande to consider the water accounting requirements for any international water sharing treaty, minutes, and agreement applicable to the Rio Grande and the effects on allocation of water by the Rio Grande water master in the middle and lower Rio Grande. Prohibits the Rio Grande basin and bay expert science team from recommending any environmental flow regime that would result in a violation of a treaty or court decision. Requires the basin and bay area stakeholders committee to develop recommendations regarding environmental flow standards and strategies to meet the environmental flow standards and submit those recommendations to TNRCC and to the advisory group in accordance with the applicable schedule specified or established under Subsection (c), (d), or (e). Requires the basin and bay area stakeholders committee, in developing its recommendations, to operate on a consensus basis to the maximum extent possible.

(p) Requires each basin and bay area stakeholder committee, with the assistance of the pertinent basin and bay expert science team, in recognition of the importance of adaptive management, after submitting its recommendations regarding environmental flow standards and strategies to meet the environmental flow standards to TNRCC, to prepare and submit a work plan for approval by the advisory group. Sets forth content requirements for the work plan.

(q) Requires the advisory group, with input from the science advisory committee, in accordance with the applicable schedule specified or established under Subsection (c), (d), or (e), to review the environmental flow analyses and environmental flow regime recommendations submitted by each basin and bay expert science team. Requires the advisory group, if appropriate, to submit comments on the analyses and recommendations to TNRCC for use by TNRCC in adopting rules under Section 11.1471. Requires comments to be submitted not later than six months after the date of receipt of the recommendations.

(r) Authorizes an estuary advisory council, in the event TNRCC, by permit or order, has established the council with specific duties related to implementation of permit conditions for environmental flows, to continue in full force and effect and requires the council to act as and perform the duties of the basin and bay area stakeholders committee under this section, notwithstanding the other provisions of this section. Requires the council to add members from stakeholder groups and from appropriate science and technical groups, if necessary, to fully meet the

criteria for membership established in Subsection (f) and requires the council to operate under the provisions of this section.

(s) Abolishes each basin and bay area stakeholders committee and basin and bay expert science team on the date the advisory group is abolished under Section 11.0236(m).

Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) Prohibits TCEQ from issuing a new permit for instream flows dedicated to environmental needs or bay and estuary inflows. Authorizes TNRCC to approve an application to amend an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows.

(b) Provides that this section does not alter TNRCC's obligations under Sections 11.042(b) or (c), 11.046(b), 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491, 11.150, 11.152, 16.058, or 16.059.

SECTION 1.08. Amends Section 11.082(b), Water Code, to authorize the state to seek to recover those penalties prescribed in Subsection (a) regardless of whether a watermaster has been appointed for the water division, river basin, or segment of a river basin where the unlawful use is alleged to have occurred. Makes a nonsubstantive change.

SECTION 1.09. Amends Section 11.0841, Water Code, by adding Subsection (c), as follows:

(c) Provides that for purposes of this section, TPWD has:

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

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

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

SECTION 1.10. Amends Section 11.0842(a), Water Code, to authorize TNRCC to assess an administrative penalty for a violation relating to a water division or a river basin or segment of a river basin regardless of whether a watermaster has been appointed for the water division or river basin or segment of the river basin. Makes a nonsubstantive change.

SECTION 1.11. Amends Section 11.0843(a), Water Code, to authorize the executive director of TCEQ, or a person designated by the executive director, including a watermaster or the watermaster's deputy, upon witnessing a violation of this chapter, a rule, order, or a water right issued under this chapter, to issue the alleged violator a field citation alleging that a violation has occurred and providing the alleged violator with specific options. Makes nonsubstantive changes.

SECTION 1.12. Amends Section 11.134(b), Water Code, to require TNRCC to grant the application for appropriations only if the proposed appropriation considers any applicable environmental flow standards established under Section 11.1471. Makes a nonsubstantive change.

SECTION 1.13. Amends Section 11.147, Water Code, by amending Subsections (b), (d), and (e) and adding Subsections (e-1), (e-2), and (e-3), as follows:

(b) Requires TNRCC, for permits to store, take, or divert water issued within an area that is 200 river miles of the coast, to commence from the mouth of the river thence inland, to

include in the permit any conditions necessary to maintain beneficial inflows to any affected bay and estuary system, to the extent practicable when considering all public interests and the studies mandated by Section 16.058 as evaluated under Section 11.1491. Deletes existing text regarding conditions necessary to maintain beneficial inflows.

(d) Requires TNRCC, in determining what conditions to include in the permit under this subsection, to consider the studies mandated by Section 16.059 and any water quality assessment performed under Section 11.150.

(e) Requires TNRCC, in determining what conditions to include in the permit under this subsection, to consider any assessment performed under Section 11.152.

(e-1) Requires any permit for a new appropriation of water or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted to include a provision allowing TNRCC to adjust the conditions included in the permit or water right to provide for protection of instream flows or freshwater inflows. Prohibits a provision, with respect to an amended water right, from authorizing TNRCC to adjust a condition of the amendment other than a condition that applies only to the increase in the amount of water to be stored, taken, or diverted authorized by the amendment. Provides that this subsection does not affect an appropriation of or an authorization to store, take, or divert water under a permit or amendment to a water right issued before September 1, 2007. Requires TNRCC to adjust the conditions upon determining, through an expedited public comment process, that such an adjustment is appropriate to achieve compliance with applicable environmental flow standards adopted under Section 11.1471. Sets forth specific prohibitions and requirements of the adjustment under this subsection.

(e-2) Entitles any water right holder who makes a contribution or amends a water right as described by Subsection (e-1)(3) to appropriate credit for the benefits of the contribution or amendment against the adjustment of the holder's water right under Subsection (e-1).

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

SECTION 1.14. Amends Subchapter D, Chapter 11, Water Code, by adding Section 11.1471, as follows:

Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES (a) Requires TNRCC, by rule, to:

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

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

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

(b) Requires TNRCC, in adopting environmental flow standards for a river basin and bay system under Subsection (a)(1), to consider specific factors regarding the definition of the geographical extent of the river basin and bay system, the definition and designation of the river basin, schedule for the adoption of environmental flow standards, the

environmental flow analyses and recommended environmental flow regime developed by the applicable basin and bay expert science team, recommendations and strategies, comments submitted by the advisory group to TNRCC, specific characteristics of the river basin and bay system, economic factors, the human and other competing water needs in the river basin and bay system, reasonably available scientific information, and any other appropriate information.

(c) Requires environmental flow standards adopted under Subsection (a)(1) to consist of a schedule of flow quantities, reflecting seasonal and yearly fluctuations that may vary geographically by specific location in a river basin and bay system.

(d) Prohibits TNRCC, as provided by Section 11.023, from issuing a permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted if the issuance of the permit or amendment would impair an environmental flow set-aside established under Subsection (a)(2). Requires a permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted that is issued after the adoption of an applicable environmental flow set-aside to contain appropriate conditions to ensure protection of the environmental flow set-aside.

(e) Requires an environmental flow set-aside established under Subsection (a)(2) for a river basin and bay system other than the middle and lower Rio Grande to be assigned a priority date corresponding to the date TNRCC receives environmental flow regime recommendations from the applicable basin and bay expert science team and be included in the appropriate water availability models in connection with an application for a permit for a new appropriation or for an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted.

(f) Authorizes an environmental flow standard or environmental flow set-aside adopted under Subsection (a) to be altered by TNRCC in a rulemaking process undertaken in accordance with a schedule established by TNRCC. Requires TNRCC, in establishing a schedule, to consider the applicable work plan approved by the advisory group under Section 11.02362(p). Prohibits TNRCC's schedule from providing for the rulemaking process to occur more frequently than once every 10 years unless the work plan provides for a periodic review under Section 11.02362(p) to occur more frequently than once every 10 years. Authorizes TNRCC, in that event, to provide for the rulemaking process to be undertaken in conjunction with the periodic review upon determining that schedule to be appropriate. Requires a rulemaking process undertaken under this subsection to provide for the participation of stakeholders having interests in the particular river basin and bay system for which the process is undertaken.

SECTION 1.15. Amends the heading to Section 11.148, Water Code, to read as follows:

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

SECTION 1.16. Amends Section 11.148, Water Code, by adding Subsection (a-1) and amending Subsections (b) and (c), as follows:

(a-1) Authorizes state water that is set aside by TNRCC to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471 (a)(2) to be made available temporarily for other essential beneficial uses, if TNRCC finds that an emergency exists that cannot practically be resolved in another way.

(b) Requires TNRCC, before suspending a permit condition under Subsection (a) or making water available temporarily under Subsection (a-1), to give written notice to TPWD of the proposed action, rather than suspension. Requires TNRCC to give TPWD an opportunity to submit comments on the proposed action within 72 hours from the time TNRCC is required to consider those comments before issuing its order implementing the proposed action. Makes conforming changes.

(c) Authorizes TNRCC to suspend the permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) without notice to any other interested party other than TPWD as provided by Subsection (b).

SECTION 1.17. Amends Section 11.1491(a), Water Code, to require publication of reports completed under this section to be submitted for comment to TNRCC, TPWD, the advisory group, the science advisory committee, and any applicable basin and bay area stakeholders committee and basin and bay expert science team. Makes conforming and nonsubstantive changes.

SECTION 1.18. Amends Section 11.329(g), Water Code, to prohibit TNRCC from assessing costs under this section against a holder of a water right placed in the Texas Water Trust for a term of at least 20 years. Deletes existing text regarding this subsection affecting the fees assessed on a water right holder by TCEQ under specific statutes.

SECTION 1.19. Amends Section 11.404(e), Water Code, to prohibit the court from assessing costs and expenses under this section against a holder of a water right placed in the Texas Water Trust for a term of at least 20 years.

SECTION 1.20. Amends Subchapter I, Chapter 11, Water Code, by adding Section 11.4531, as follows:

Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) Requires the executive director of TNRCC, for each river basin or segment of a river basin for which the executive director appoints a watermaster under this subchapter, to appoint a watermaster advisory committee (watermaster committee) consisting of at least nine but not more than 15 members. Requires a member of the watermaster committee to be a holder of a water right or a representative of a holder of a water right in the river basin or segment of the river basin for which the watermaster is appointed. Requires the executive director, in appointing members to the watermaster committee, to consider geographic representation; amount of water rights held; different types of holders of water rights and users, including water districts, municipal suppliers, irrigators, and industrial users; and experience and knowledge of water management practices.

(b) Provides that a watermaster committee member is not entitled to reimbursement of expenses or to compensation.

(c) Provides that a watermaster committee member serves a two-year term expiring August 31 of each odd-numbered year and holds office until a successor is appointed.

(d) Requires the watermaster committee to meet within 30 days after the date the initial appointments have been made and to select a presiding officer to serve a one-year term. Requires the committee to meet regularly as necessary.

(e) Requires the watermaster committee to make specific recommendations, reviews, and comments, and perform other advisory duties as requested by the executive director of TNRCC.

SECTION 1.21. Amends Sections 11.454 and 11.455, Water Code, as follows:

Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER. Provides that Section 11.327 applies to the duties and authority of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as the section applies to the duties and authority of a watermaster appointed for a water division under Subchapter G. Deletes existing text regarding duties of a watermaster.

Sec. 11.455. New heading: COMPENSATION AND EXPENSES OF WATERMASTER. (a) Provides that Section 11.329 applies to the payment of the compensation and expenses of a watermaster appointed for a river basin or segment of a

river basin under this subchapter in the same manner as that section applies to the payment of the compensation and expenses of a watermaster appointed for a water division under Subchapter G.

(b) Requires the executive director of TNRCC to deposit the assessments collected under this section to the credit of the watermaster fund.

(c) Authorizes money deposited under this section to the credit of the watermaster fund to be used only for the purposes specified by Section 11.3291 with regard to the watermaster operation under this subchapter with regard to which the assessments were collected. Deletes existing text authorizing TNRCC to assess the costs of the watermaster against all persons who hold water rights in the river basin or segment of the river basin under the watermaster's jurisdiction.

SECTION 1.22. Amends Subchapter F, Chapter 15, Water Code, by adding Section 15.4063, as follows:

Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. Authorizes TWDB to authorize the use of money in the research and planning fund for certain compensations and contracts.

SECTION 1.23. Amends Section 16.059(d), Water Code, to require the priority studies to be completed not later than December 31, 2016, rather than 2010.

SECTION 1.24. Reenacts and amends Section 26.0135(h), Water Code, as amended by Chapters 234 and 965, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(h) Provides that irrigation water rights, non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to the assessment to recover the costs of administering water quality management programs. Makes nonsubstantive changes.

SECTION 1.25. Repealer: Section 11.1491(b) (regarding creation and establishment of advisory council for data collection and studies), Water Code.

SECTION 1.26. (a) Requires the governor, lieutenant governor, and speaker of the house of representatives to appoint the initial members of the advisory group as provided by Section 11.0236, Water Code, as amended by this article, as soon as practicable on or after the effective date of this Act.

(b) Requires the initial members of the advisory group, as soon as practicable after taking office, to appoint the initial members of the science advisory committee as provided by Section 11.02361, Water Code, as added by this article. Provides that the terms of the initial members of the committee expire March 1, 2012.

(c) Requires the advisory group to appoint the members of each basin and bay area stakeholders committee as provided by Section 11.02362, Water Code, as added by this article. Provides that the terms of the initial members of each committee expire March 1 of the fifth year that begins after the year in which the initial appointments are made.

(d) Requires each basin and bay area stakeholders committee to appoint the members of the basin and bay expert science team for the river basin and bay system for which the committee is established as provided by Section 11.02362, Water Code, as added by this article. Provides that the terms of the initial members of each committee expire April 1 of the fifth year that begins after the year in which the initial appointments are made.

(e) Requires the executive director of TCEQ to appoint the members of the advisory committee under Section 11.4531, Water Code, as added by this article, for each river basin or segment of a river basin for which the executive director appoints a watermaster under Subchapter I, Chapter 11, Water Code. Provides that the terms of the initial

members of the committee expire August 31 of the first odd-numbered year that begins after the year in which the initial appointments are made.

SECTION 1.27. Provides that the changes in law made by this article relating to a permit for a new appropriation of water or to an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted apply to water appropriated under a permit for a new appropriation of water the application for which is pending with TCEQ on the effective date of this Act or is filed with TCEQ on or after that date or the increase in the amount of water authorized to be stored, taken, or diverted under an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted and the application for which is pending with TCEQ on the effective date of this Act or is filed with TCEQ on or after that date.

ARTICLE 2. WATER CONSERVATION AND PLANNING AND OTHER WATER-RELATED PROVISIONS

SECTION 2.01. Amends Section 1.003, Water Code, as follows:

Sec. 1.003. **PUBLIC POLICY.** Provides that it is the public policy of the state to provide for the conservation and development of the state's natural resources, including the voluntary stewardship of public and private lands to benefit waters of the state.

SECTION 2.02. Amends Subchapter A, Chapter 1, Water Code, by adding Section 1.004, as follows:

Sec. 1.004. **FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.** Sets forth legislative findings and state policy regarding responsible voluntary land stewardship as a significant water management tool. Defines "land stewardship."

SECTION 2.03. Amends Subtitle A, Title 2, Water Code, by adding Chapter 10, as follows:

CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL

Sec. 10.001. **DEFINITIONS.** Defines "best management practices," "board," "commission," and "council."

Sec. 10.002. **PURPOSE.** Creates the Water Conservation Advisory Council (council) to provide certain elected officials, governmental entities, and the public with the resource of a select council with expertise in water conservation.

Sec. 10.003. **CREATION AND MEMBERSHIP.** (a) Provides that the council is composed of 23 members appointed by TWDB. Requires TWDB to appoint one member from certain entities or interest groups to represent those entities and groups.

(b) Authorizes each entity or interest group described by Subsection (a) to recommend one or more persons to fill the position on the council held by the member who represents that entity or interest group. Requires TWDB to appoint one of the persons recommended to fill the position if one or more persons are recommended for a position on the council.

Sec. 10.004. **TERMS.** (a) Provides that members of the council serve staggered terms of six years, with seven or eight members' terms, as applicable, expiring August 31 of each odd-numbered year.

(b) Requires TWDB to fill a vacancy on the council for the unexpired term by appointing a person who has the same qualifications as required under Section 10.003 for the person who previously held the vacated position.

Sec. 10.005. **PRESIDING OFFICER.** Requires the council members to select one member as the presiding officer of the council to serve in that capacity until the person's term as a council member expires.

Sec. 10.006. COUNCIL STAFF. Requires TWDB to provide any necessary staff to assist the council in the performance of its duties on request by the council.

Sec. 10.007. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a) Authorizes the council to hold public meetings as needed to fulfill its duties under this chapter.

(b) Provides that the council is subject to Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

Sec. 10.008. INAPPLICABILITY OF ADVISORY COMMITTEE LAW. Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of the council.

Sec. 10.009. COMPENSATION OF MEMBERS. (a) Provides that members of the council serve without compensation but authorizes members of the council to be reimbursed by legislative appropriation for actual and necessary expenses related to the performance of council duties.

(b) Provides that reimbursement under Subsection (a) is subject to the approval of the presiding officer of the council.

Sec. 10.010. POWERS AND DUTIES OF COUNCIL. Sets forth required powers and duties of the council.

Sec. 10.011. REPORT. Requires the council to submit to certain elected officials a report on progress made in water conservation in this state not later than December 1 of each even-numbered year.

Sec. 10.012. DESIGNATION OF CERTIFIED WATER CONSERVATION TRAINING FACILITIES STUDY. (a) Requires the council to conduct a study to evaluate the desirability of requiring TWDB to designate as certified water conservation training facilities entities and programs that provide assistance to retail public utilities in developing water conservation plans (plans) under Section 13.146 and to give preference to certified water conservation training facilities in making loans or grants for water conservation training and education activities.

(b) Requires the council to submit a written report containing the findings of the study and the recommendations of the council to certain elected officials not later than December 1, 2008.

(c) Provides that this section expires June 1, 2009.

SECTION 2.04. Amends Section 11.002, Water Code, by adding Subdivision (20), to define "best management practices."

SECTION 2.05. Amends Sections 13.002(1-a), (5), and (8), Water Code, to redefine "landowner," "owner of a tract of land," "owners of each tract of land," "commission," and "executive director."

SECTION 2.06. Amends Subchapter E, Chapter 13, Water Code, by adding Sections 13.146 and 13.147, as follows:

Sec. 13.146. WATER CONSERVATION PLAN. Requires TNRCC to require a retail public utility that provides potable water service to 3,300 or more connections to submit to the executive administrator of TWDB (executive administrator), a water conservation plan based on specific targets and goals for water savings developed by the retail public utility and using appropriate best management practices, as defined by Section 11.002, or other water conservation strategies.

Sec. 13.147. CONSOLIDATED BILLING AND COLLECTION CONTRACTS. (a) Authorizes a retail public utility providing water service to contract with a retail public utility providing sewer service to bill and collect the sewer service provider's fees and payments as part of a consolidated process with the billing and collection of the water service provider's fees and payments. Authorizes the water service provider to provide that service only for customers who are served by both providers in an area covered by both providers' certificates of public convenience and necessity. Authorizes the sewer service provider to petition TNRCC to issue an order requiring the water service provider to provide that service if the water service provider refuses to enter into a contract under this section or if the water service provider and sewer service provider cannot agree on the terms of a contract.

(b) Requires a contract or order under this section to provide procedures and deadlines for submitting billing and customer information to the water service provider and for the delivery of collected fees and payments to the sewer service provider.

(c) Authorizes a contract or order under this section to require or permit a water service provider that provides consolidated billing and collection of fees and payments to terminate the water services of a person whose sewage services account is in arrears for nonpayment, and charge a customer a reconnection fee if the customer's water service is terminated for nonpayment of the customer's sewage services account.

(d) Authorizes a water service provider that provides consolidated billing and collection of fees and payments to impose on each sewer service provider customer a reasonable fee to recover costs associated with providing consolidated billing and collection of fees and payments for sewage services.

SECTION 2.07. Amends Subchapter F, Chapter 13, Water Code, by adding Section 13.188, as follows:

Sec. 13.188. ADJUSTMENT FOR CHANGE IN ENERGY COSTS. (a) Requires TNRCC by rule to adopt a procedure allowing a utility to file with TNRCC an application to timely adjust the utility's rates to reflect an increase or decrease in documented energy costs in a pass through clause, notwithstanding any other provision of this chapter. Requires TNRCC by rule to require the pass through of documented increases in energy costs within a reasonable time. Requires the pass through, whether a decrease or increase, to be implemented on no later than an annual basis, unless TNRCC determines a special circumstance applies.

(b) Provides that this adjustment is an uncontested matter not subject to a contested case hearing, notwithstanding any other provision to the contrary. Requires the executive director of TNRCC to hold an uncontested public meeting under certain circumstances.

(c) Provides that a proceeding under this section is not a rate case and Section 13.187 (Statement of Intent to Change Rates; Hearing; Determination of Rate Level) does not apply.

SECTION 2.08. Amends Section 13.2451, Water Code, as follows:

Sec. 13.2451. EXTENSION BEYOND EXTRATERRITORIAL JURISDICTION. (a) Deletes existing text providing an exemption as provided by Subsection (b).

(b) Requires a municipality that seeks to extend a certificate of public convenience and necessity beyond the municipality's extraterritorial jurisdiction to ensure that the municipality complies with Section 13.241 in relation to the area covered by the portion of the certificate that extends beyond the municipality's extraterritorial jurisdiction.

(c) Authorizes TNRCC, after notice to the municipality and an opportunity for a hearing, to decertify an area outside a municipality's extraterritorial jurisdiction if the municipality does not provide service to the area on or before the fifth anniversary of the date the certificate of public convenience and necessity was granted for the area. Provides that this subsection does not apply to a certificate of public convenience and necessity for a certain area.

(d) Provides that to the extent of a conflict between this section and Section 13.245 (Municipal Boundaries or Extraterritorial Jurisdiction of Certain Municipalities), Section 13.245 prevails. Deletes existing text prohibiting TNRCC from extending a municipality's certificate of public convenience and necessity beyond its extraterritorial jurisdiction without the written consent of the landowner who owns the property in which the certificate is to be extended. Deletes existing text providing that the portion of any certificate of public convenience and necessity that extends beyond the extraterritorial jurisdiction of the municipality without the consent of the landowner is void.

SECTION 2.09. Amends Section 13.246(a-1), Water Code, to require TNRCC to require notice to be mailed to each owner of a tract of land that is at least 25 acres, rather than 50 acres, and is wholly or partially included in the area proposed to be certified, except as otherwise provided by this subsection, in addition to the notice required by Subsection (a).

SECTION 2.10. Amends Section 15.102(b), Water Code, to authorize the water loan assistance fund to be used by TWDB to provide grants for water conservation.

SECTION 2.11. Amends Subchapter Q, Chapter 15, Water Code, by adding Section 15.9751, as follows:

Sec. 15.9751. PRIORITY FOR WATER CONSERVATION. Requires TWDB to give priority to applications for funds for the implementation of water supply projects in the state water plan by entities that have already demonstrated significant water conservation savings or will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.12. Amends Section 16.017, Water Code, as follows:

Sec. 16.017. TOPOGRAPHIC AND GEOLOGIC MAPPING. (a) Creates this subsection from existing text.

(b) Requires the executive administrator to operate as part of the Texas Natural Resources Information System a strategic mapping program to acquire, store, and distribute digital, geospatial information.

SECTION 2.13. Amends Subchapter B, Chapter 16, Water Code, by adding Sections 16.023 and 16.024, as follows:

Sec. 16.023. STRATEGIC MAPPING ACCOUNT. (a) Provides that the strategic mapping account is an account in the general revenue fund. Sets forth the composition of the strategic mapping account.

(b) Authorizes the strategic mapping account to be appropriated to TWDB only for certain purposes.

(c) Authorizes TWDB to invest, reinvest, and direct the investment of any available money in the fund as provided by law for the investment of money under Section 404.024 (Authorized Investments), Government Code.

Sec. 16.024. FINANCIAL ASSISTANCE FOR DIGITAL, GEOSPATIAL INFORMATION PROJECTS. (a) Requires a political subdivision seeking a grant under Section 16.023 to file an application with TWDB.

- (b) Requires an application to be filed in the manner and form required by TWDB rules.
- (c) Requires TWDB to make certain considerations in reviewing an application by a political subdivision for a grant.
- (d) Authorizes TWDB to approve a grant to a political subdivision only if TWDB makes certain findings.

SECTION 2.14. Amends Section 16.053(h), Water Code, by adding Subdivisions (10) and (11), as follows:

(10) Authorizes the regional water planning group to amend the regional water plan after the plan has been approved by TWDB. Provides that Subdivisions (1)-(9) apply to an amendment to the plan in the same manner as those subdivisions apply to the plan.

(11) Provides that this subdivision applies only to an amendment to a regional water plan approved by TWDB. Provides that this subdivision does not apply to the adoption of a subsequent regional water plan for submission to TWDB as required by Subsection (i). Authorizes the regional water planning group, notwithstanding Subdivision (10), to amend the plan in the manner provided by this subdivision if the executive administrator makes a written determination that the proposed amendment qualifies for adoption in the manner provided by this subdivision before the regional water planning group votes on adoption of the amendment. Provides that a proposed amendment qualifies for adoption in the manner provided by this subdivision only if the amendment is a minor amendment, as defined by TWDB rules, that will not result in the overallocation of any existing or planned source of water, does not relate to a new reservoir, and will not have a significant effect on instream flows or freshwater inflows to bays and estuaries. Authorizes the regional water planning group, if the executive administrator determines that a proposed amendment qualifies for adoption in the manner provided by this subdivision, to adopt the amendment at a public meeting held in accordance with Chapter 551, Government Code. Requires the proposed amendment to be placed on the agenda for the meeting, and requires notice of the meeting to be given in the manner provided by Chapter 551, Government Code, at least two weeks before the date the meeting is held. Requires that the public be provided an opportunity to comment on the proposed amendment at the meeting.

SECTION 2.15. Amends Section 16.053(r), Water Code, as added by Chapter 1097, Acts of the 79th Legislature, Regular Session, 2005, to make nonsubstantive changes.

SECTION 2.16. Amends Subchapter E, Chapter 16, Water Code, by adding Section 16.1311, as follows:

Sec. 16.1311. PRIORITY FOR WATER CONSERVATION. Requires TWDB to give priority to applications for funds for implementation of water supply projects in the state water plan by entities that have already demonstrated significant water conservation savings or will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.17. Amends Sections 16.315 and 16.319, Water Code, as follows:

Sec. 16.315. POLITICAL SUBDIVISIONS; COMPLIANCE WITH FEDERAL REQUIREMENTS. Authorizes all political subdivisions to take all necessary and reasonable actions that are not less stringent than, rather than to comply with, the requirements and criteria of the National Flood Insurance Program. Includes providing for the imposition of penalties on landowners who violate this subchapter (Flood Insurance) or rules adopted or orders issued under this subchapter as actions can be taken under this section. Makes conforming changes.

Sec. 16.319. QUALIFICATION. Makes a conforming change.

SECTION 2.18. Amends Chapter 16, Water Code, by adding Subchapter K, as follows:

SUBCHAPTER K. WATER CONSERVATION

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

(b) Requires the executive administrator to develop and implement the program in a state fiscal biennium only if the legislature appropriates sufficient money in that biennium for that purpose.

Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Requires each entity that is required to submit a water conservation plan to TNRCC under this code to submit a copy of the plan to the executive administrator.

(b) Requires each entity required to submit a water conservation plan to the executive administrator of TWDB, TWDB, or TNRCC under this code to report annually to the executive administrator on the entity's progress in implementing the plan.

(c) Requires the executive administrator to review each water conservation plan and annual report to determine compliance with the minimum requirements established by Section 11.1271 (Additional Requirements: Water Conservation Plans) and the submission deadlines developed under Subsection (e) of this section.

(d) Authorizes TWDB to notify TNRCC if TWDB determines that an entity has violated this section or a rule adopted under this section. Provides that a violation of this section or of a rule adopted under this section, notwithstanding Section 7.051(b), is enforceable in the manner provided by Chapter 7 (Enforcement) for a violation of a provision of this code within TNRCC's jurisdiction or of a rule adopted by TNRCC under a provision of this code within TNRCC's jurisdiction.

(e) Requires TWDB and TNRCC to jointly adopt rules identifying the minimum requirements and submission deadlines for the annual reports required by Subsection (b) and providing for the enforcement of this section and rules adopted under this section.

SECTION 2.19. Amends Section 17.125, Water Code, by adding Subsection (b-2), to require TWDB to give priority to applications for funds for implementation of water supply projects in the state water plan by entities that have already demonstrated significant water conservation savings or will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.20. Amends Chapter 35, Water Code, by adding Section 35.020, as follows:

Sec. 35.020. PUBLIC PARTICIPATION IN GROUNDWATER MANAGEMENT PROCESS. Provides that it is the policy of the state to encourage public participation in the groundwater management process in areas within a groundwater management area not represented by a groundwater conservation district.

SECTION 2.21. Amends Section 36.113(d), Water Code, to require groundwater conservation districts, if a well will be located in the Hill Country Priority Groundwater Management Area, to consider before granting or denying a permit or permit amendment whether the proposed use of water from the well is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape. Makes nonsubstantive changes.

SECTION 2.22. Amends Section 36.117, Water Code, to authorize a groundwater conservation district to require a well to be permitted by the district and to comply with all district rules if the withdrawals from a well in the Hill Country Priority Groundwater Management Area and exempted under Subsection (b)(1) are no longer used solely for domestic use or to provide water for livestock or poultry. Makes nonsubstantive changes.

SECTION 2.23. Amends Subchapter H, Chapter 49, Water Code, by adding Section 49.2205, as follows:

Sec. 49.2205. **USE OF RIGHT-OF-WAY EASEMENTS FOR CERTAIN ENERGY-RELATED PURPOSES.** (a) Authorizes a water conservation district or water supply corporation to allow others to construct, maintain, and operate transmission lines and pipelines over, under, across, on, or along rights-of-way and easements of the district or water supply corporation for transmission of electricity generated by those projects and the transportation of carbon dioxide and other greenhouse gases, unless certain circumstances apply, in order to foster the generation and transmission of electricity from clean coal projects, renewable energy technology projects, and the capture of and storage of carbon dioxide and other greenhouse gases.

(b) Provides that the water conservation district or water supply corporation is not required to obtain additional consideration for the construction, maintenance, and operation of the transmission lines and pipelines under this section if the person constructing, maintaining, and operating the transmission lines and pipelines bears all costs of the construction, maintenance, and operation of the transmission lines and pipelines and restoring the property. Authorizes the activities authorized by this subsection to be exercised only with the consent of and subject to the direction of the governing body of the water conservation district or water supply corporation.

(c) Authorizes a person that is subject to Subsection (a) that acquires a right-of-way easement on real property for a public use to include in the notice of the acquisition a certain statement.

(d) Provides that this section applies only to a right-of-way or easement acquired by the water conservation district or water supply corporation on or after September 1, 2007.

(e) Provides that this section does not apply to a right-of-way or easement that is used for the transmission of electricity without the consent of a person owning the transmission lines if that use began before September 1, 2007.

SECTION 2.24. Amends Chapter 49, Water Code, by adding Subchapter O, as follows:

SUBCHAPTER O. EFFECT OF SUBDIVISION OF NONAGRICULTURAL LAND ON WATER RIGHTS

Sec. 49.501. **DEFINITION.** Defines "municipal water supplier."

Sec. 49.502. **APPLICABILITY.** Provides that this subchapter applies only to a water conservation or reclamation district (district), other than a drainage district, located wholly or partly in a county that borders the Gulf of Mexico and the United Mexican States or that is adjacent to such a county.

Sec. 49.503. **PETITION BY MUNICIPAL WATER SUPPLIER TO CONVERT WATER USE AFTER SUBDIVISION.** (a) Sets forth the land to which this section applies.

(b) Authorizes a municipal water supplier (supplier) that serves land described by Subsection (a) to petition any district in accordance with this section to convert the proportionate irrigation water right to the Rio Grande from irrigation use to

municipal use with municipal priority of allocation under TNRCC rules, for the use and benefit of the supplier.

(c) Requires the supplier to file the petition with the district not later than January 1 after the expiration of two years after the date the plat or map was recorded under Subsection (a). Requires the district to consider the petition not later than January 31 of the year following the year in which the petition was filed.

(d) Requires the petition to identify by subdivision name or other sufficient description the land that the supplier supplies or has the right to supply potable water.

(e) Provides that this section applies only to one subdivision of land recorded under Subsection (a) and does not apply to any further subdivision of the same property.

Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE TO FILE A PETITION. (a) Authorizes the district to retain the water rights for use by the district or declare the water as excess and contract for the sale or use of the water as determined by the district if a municipal water supplier does not file a petition under Section 49.503.

(b) Requires the district, for 90 days, to make the water available under the same terms to all suppliers located outside of a county described by Section 49.502 and to advertise the offer to sell or contract for the use of the water by posting notice at certain locations before a district is authorized to contract for the sale or use of water for more than one year with such counties.

(c) Authorizes the district to contract with any other person for the sale or use of the water under the terms of the offer advertised under Subsection (b) if, after the 90th day after the last date on which the district posted notice, a supplier in a county described by Section 49.502 has not contracted with the district for the sale or use of the water.

Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. Requires a district that receives a petition under Section 49.503 to compute the proportionate amount of water rights to the Rio Grande. Sets forth the calculation for determining the proportionate amount of water rights.

Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE WATER RIGHTS BY DISTRICT. (a) Requires a district, not later than the second anniversary of the date the supplier files a petition under Section 49.503, to provide the supplier with the proportionate water rights described by Section 49.505 from the district's existing water rights or, if the district that does not have sufficient existing water rights, to apply for appropriate amendments to the district's water rights under TNRCC rules to convert the proportionate water rights from irrigation use to municipal use with municipal priority of allocation and provide to the supplier the converted rights described by Section 49.505.

(b) Authorizes the district to continue to use the irrigation use water for district purposes until TNRCC approves the amendment to the district's water rights or the water is otherwise provided to the supplier.

(c) Requires a district that applies for appropriate amendments under Subsection (a)(2) to provide the supplier with an estimate of the district's reasonable costs for the administrative proceedings. Provides that the district is not required to begin the proceedings until the supplier deposits the amount of the estimate with the district. Requires the supplier to pay the district any reasonable costs that exceed the estimate. Requires the district to refund the balance of the deposit if the actual cost is less than the estimate.

Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER RIGHTS; WATER RIGHTS SALE CONTRACT. (a) Authorizes a supplier to contract to purchase the proportionate water rights described by Section 49.505.

(b) Prohibits the purchase price from exceeding 68 percent of the current market value, as determined under Section 49.509, for the year that the supplier petitions the district.

(c) Requires the contract to be in writing in a document entitled "Water Rights Sales Contract."

(d) Requires the contract to include the purchase price for the water rights or, if the consideration for the sale is not monetary, the terms of the sale.

(e) Requires the supplier to file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

(f) Requires the supplier to pay the purchase price when the proportionate amount of water rights is made available to the supplier.

Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS; WATER SUPPLY CONTRACT. (a) Authorizes a supplier to contract to use water associated with the proportionate water rights described by Section 49.505.

(b) Requires the contract to be for at least 40 years.

(c) Sets forth the calculation for determining the price for the contractual right to receive the municipal use water and prohibits the price from exceeding a certain calculated amount.

(d) Requires the parties to the contract to agree on the terms of payment of the contract price.

(e) Requires the governing body of a district to periodically determine the flat rate charge and irrigation per acre charge described by Subsection (c).

(f) Requires the contract be in writing in a document entitled "Water Supply Contract." Authorizes the contract to contain any terms to which the parties agree.

(g) Requires the supplier to file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY TO CALCULATE CURRENT MARKET VALUE. (a) Requires the Rio Grande Regional Water Authority (water authority) to calculate annually at its January meeting the current market value and sets forth the calculation for determining such.

(b) Requires the water authority to use information from the water rights sales contracts reported to the Rio Grande Watermaster's Office to calculate the current market value.

(c) Requires the water authority to make the calculation without charging any of the parties involved and using 100 percent of the value of monetary exchanges, not in-kind exchanges.

Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. Requires a district to maintain an accounting of money received from the sale of water rights under this subchapter.

Sec. 49.511. CAPITAL IMPROVEMENTS. Requires a district to designate at least 75 percent of the proceeds from the sale of water rights for capital improvements in the district.

Sec. 49.512. MAP OF SERVICE AREA. (a) Defines "outer boundaries of a district."

(b) Requires each supplier that has a certificate of convenience and necessity service area in the outer boundaries of a district to file a map of the service area with the district.

(c) Requires the supplier to update the map and forward the map to the district when changes are made.

(d) Requires a district to periodically provide to a supplier that serves territory in the district a copy of the district's map showing the outer boundaries of the district.

(e) Authorizes a district to request from a supplier a map of the supplier's service area and authorizes a supplier to request from the district a map of the district's outer boundaries. Requires the district and supplier to provide the map free of charge to each other at least one time each year upon request. Authorizes the district or supplier to charge a reasonable fee for the map if the district or supplier receives more than one request a year for a map.

SECTION 2.25. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.969, as follows:

Sec. 51.969. ON-SITE RECLAIMED SYSTEM TECHNOLOGIES CURRICULUM. Requires the Texas Higher Education Coordinating Board to encourage each institution of higher education to develop curriculum and provide related instruction regarding on-site reclaimed system technologies, including certain system technologies.

SECTION 2.26. Amends Chapter 68, Education Code, by adding Subchapter B, as follows:

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Sec. 68.21. SUSTAINABLE WATER SUPPLY RESEARCH CENTER. (a) Defines "center."

(b) Authorizes the board of regents of The University of Texas System (board) to establish and operate the Sustainable Water Supply Research Center (center) as part of The University of Texas at Arlington.

(c) Requires the center to perform certain duties if established.

(d) Provides that the organization, control and management of the center are vested in the board.

(e) Authorizes the center to enter into an agreement or cooperate with a public or private entity to perform the research functions of the center.

(f) Authorizes the board to solicit, accept, and administer gifts and grants from any public or private source for the use and benefit of the center.

SECTION 2.27. Amends Section 447.004, Government Code, by adding Subsection (c-1), to require the procedural standards adopted under this section to require that on-site reclaimed systems technologies, including certain system technologies or a combination of those system technologies, for nonpotable indoor use and landscape watering be incorporated in the design and construction of each new state building with a roof measuring at least 10,000 square feet and any other new state building for which the incorporation of such systems is feasible.

SECTION 2.28. Amends Section 341.042, Health and Safety Code, as follows:

Sec. 341.042. STANDARDS FOR HARVESTED RAINWATER. (a) Creates this subsection from existing text.

(b) Requires TNRCC by rule to provide that if a structure is connected to a public water supply system and has a rainwater harvesting system for indoor use the structure is required to have appropriate cross-connection safeguards and the rainwater harvesting system may be used only for nonpotable indoor purposes.

(c) Provides that standards and rules adopted by TNRCC under this chapter governing public drinking water supply systems do not apply to certain persons.

SECTION 2.29. Amends Section 212.0101(b), Local Government Code, to require TCEQ, rather than TNRCC, by rule, to establish the appropriate form and content of a certification to be attached to a plat application under this section.

SECTION 2.30. Amends Section 232.0032(b), Local Government Code, to make a conforming change.

SECTION 2.31. Amends Chapter 401, Local Government Code, by adding Section 401.006, as follows:

Sec. 401.006. WATER CONSERVATION BY HOME-RULE MUNICIPALITY. Authorizes a home-rule municipality to adopt and enforce ordinances requiring water conservation in the municipality and by customers of the municipality's municipally owned water and sewer utility in the extraterritorial jurisdiction of the municipality.

SECTION 2.32. Amends Subchapter Z, Chapter 402, Local Government Code, by adding Section 402.911, as follows:

Sec. 402.911. DUTIES OF WATER SERVICE PROVIDER TO AN AREA SERVED BY SEWER SERVICE OF CERTAIN POLITICAL SUBDIVISIONS. (a) Sets forth certain areas to which this section applies.

(b) Requires the water service provider to provide the municipality or district with any relevant customer information for each person the water service provider serves in an area to which this section applies so that the municipality or district may bill users of the sewer service directly and verify the water consumption of users.

(c) Requires the municipality or district to reimburse the water service provider for its reasonable and actual incremental costs for providing services to the municipality or district under this section. Provides that incremental costs are limited to only those costs that are in addition to the water service provider's costs in providing its services to its customers. Provides that those costs must be consistent with the costs incurred by other water utility providers. Requires the water service provider, only if requested by the wastewater provider, to provide the municipality or district with documentation certified by a certified public accountant of the reasonable and actual incremental costs for providing services to the municipality or district under this section.

(d) Authorizes a municipality or conservation and reclamation district to provide written notice to a person to whom the municipality's or district's sewer service system provides service if the person has failed to pay for the service for more than 90 days. Provides that the notice must state the past due amount owed and the deadline by which the past due amount must be paid or the person will lose water service. Authorizes the notice to be sent by mail or hand-delivered to the location at which the sewer service is provided.

(e) Authorizes the municipality or district to notify the water service provider of a person who fails to make timely payment after the person receives notice under Subsection (d). Provides that the notice must indicate the number of days the person has failed to pay for sewer service and the total amount past due. Requires the water service provider to discontinue water service to the person on receipt of the notice.

(f) Provides that this section does not apply to a nonprofit water supply or sewer service corporation created under Chapter 67 (Nonprofit Water Supply or Sewer Service Corporations), Water Code, or a district created under Chapter 65 (Special Utility Districts), Water Code.

SECTION 2.33. Amends Section 430.003, Local Government Code, as follows:

Sec. 430.003. New heading: EXEMPTIONS OF CERTAIN PROPERTY FROM INFRASTRUCTURE FEES. Prohibits county, municipal, and utility districts from collecting from a private institution of higher education any fee charged for the development or maintenance of programs or facilities for the control of excess water or storm water.

SECTION 2.34. Amends Section 1903.053, Occupations Code, as follows:

Sec. 1903.053. STANDARDS. (a) Requires TCEQ to adopt by rule and enforce standards governing the connection of irrigation systems to any water supply, governing the design, installation, and operation of irrigation systems, governing water conservation, and governing the duties and responsibilities of licensed irrigators.

(b) Redesignated from existing subsection (c). Deletes existing text authorizing TCEQ to adopt standards for irrigation that include water conservation, irrigation system design and installation, and compliance with municipal codes.

(c) Requires TCEQ to consult the Irrigator Advisory Council in adopting standards under this section.

SECTION 2.35. (a) Defines "board."

(b) Requires TWDB, in coordination with the Far West Texas Regional Water Planning Group (planning group) established pursuant to Section 16.053 (Regional Water Plans), Water Code, to conduct a study regarding the possible impact of climate change on surface water supplies from the Rio Grande.

(c) Requires TWDB, in conducting the study, to convene a conference within the Far West Texas regional water planning area designated pursuant to Section 16.053, Water Code, to review certain analyses and recommendations.

(d) Provides that the conference should include, but not be limited to, the participation of representatives of the planning group, water authorities, industrial customers, agricultural interests, municipalities, fishing or recreational interests, environmental advocacy organizations, and institutions of higher education.

(e) Requires TWDB, not later than December 31, 2008, to submit to the legislature a written report regarding the study findings under this section.

SECTION 2.36. (a) Repealer: Chapter 9 (Texas Water Advisory Council), Water Code.

(b) Provides that the Texas Water Advisory Council is abolished on the effective date of this article.

SECTION 2.37. Repealer: Chapter 64 (Water Import Authorities), Water Code.

SECTION 2.38. Requires TWDB to appoint the initial members of the council, as required by Section 10.003, Water Code, as added by this article, as soon as practicable on or after the effective date of this article. Requires TWDB, in making the initial appointments, to designate seven members to serve terms expiring August 31, 2011, eight members to serve terms expiring August 31, 2011, and eight members to serve terms expiring August 31, 2013.

SECTION 2.39. Provides that the changes in law made by this Act apply only to an application for a certificate of public convenience and necessity or for an amendment to a certificate of public convenience and necessity submitted to the Texas Commission on Environmental Quality on or after the effective date of this Act; a proceeding to amend or revoke a certificate of public convenience and necessity initiated on or after the effective date of this Act; a certificate of public convenience and necessity issued to a municipality, regardless of the date the certificate was issued; an application by a municipality or by a utility owned by a municipality for a certificate of public convenience and necessity or for an amendment to a certificate, regardless of the date the application was filed; and a proceeding to amend or revoke a certificate of public convenience and necessity held by a municipality or by a utility owned by a municipality, regardless of the date the proceeding was initiated.

SECTION 2.40. Makes application of Sections 15.102 and 17.125, Water Code, as amended by this article, and Sections 15.9751 and 16.1311, Water Code, as added by this article, prospective.

SECTION 2.41. Makes application of the change in law made by Subchapter O, Chapter 49, Water Code, as added by this Act, prospective.

SECTION 2.42. Requires TCEQ to adopt standards as required by Section 1903.053, Occupations Code, as amended by this article, not later than June 1, 2008, to take effect January 1, 2009.

SECTION 2.43. Effective date of Section 2.27 of this article, adding Section 447.004(c-1), Government Code: September 1, 2009.

ARTICLE 3. CONSTRUCTION AND OPERATION OF RESERVOIRS

SECTION 3.01. Amends Section 16.051, Water Code, by adding Subsection (i), as follows:

(i) Prohibits the acquisition of fee title or an easement by a political subdivision for the purpose of providing retail public utility service to property in the reservoir site or allowing an owner of property in the reservoir site to improve or develop the property from being considered a significant impairment that prevents the construction of a reservoir site under Subsection (g), for purposes of this section (State Water Plan: Drought, Conservation, Development, and Management; Effect of Plan.). Prohibits a fee title or easement acquired under this subsection from being considered the basis for preventing the future acquisition of land needed to construct a reservoir on a designated site.

SECTION 3.02. Amends Subchapter E, Chapter 16, Water Code, by adding Sections 16.143 and 16.144, as follows:

Sec. 16.143. OPTION TO LEASE. (a) Entitles a former owner of real property used for agricultural purposes that was acquired for a reservoir, voluntarily or through eminent domain, for a reservoir whose site has been designated as unique for the construction of a reservoir under Section 16.051(g) to lease the property from the person who acquired the property under terms that allows the former owner to continue to use the property for agricultural purposes until the person who acquired the property determines that such use must be terminated to allow for the physical construction of the reservoir. Provides that the lease is subject to the terms and conditions set forth by the person who has acquired the property that are related to the use of the property by the former owner, including the term of the lease, the rent the former owner is required to pay under the lease, and the uses that may be allowed on the property during the term of the lease.

(b) Entitles a former owner of real property used for agricultural purposes to

lease the property for the property's agricultural rental value until the person who acquired the property determines that the lease must be terminated to allow for the physical construction of the reservoir.

Sec. 16.144. ENVIRONMENTAL MITIGATION. (a) Requires a person proposing to construct a reservoir whose site has been designated as unique for construction of a reservoir under Section 16.051(g) and is required to mitigate future adverse environmental effects arising from the construction or operation of the reservoir or related facilities, to attempt to mitigate those effects by offering to contract with and pay an amount of money to an owner to take certain actions with the property instead of acquiring or maintaining property for that purpose, if authorized by the applicable regulatory authority.

(b) Authorizes an owner to reject an offer made under Subsection (a). Provides that if agreement on the terms of a n easement under Subsection (a) cannot be reached by the parties after a good faith attempt and offer is made, then the party constructing the reservoir is authorized to obtain fee title to the property through voluntary or involuntary means.

ARTICLE 3. UNIQUE RESERVOIR SITES AND SITES OF UNIQUE ECOLOGICAL VALUE

SECTION 4.01. Amends Section 16.051, Water Code, by adding Subsection (g-1), as follows:

(g-1) Provides that a site is considered to be a designated site of unique value for the construction of a reservoir, notwithstanding any other provisions of law, if the site is recommended for designation in the 2007 state water plan adopted by TWDB and in effect on May 1, 2007. Provides that the designation of a unique reservoir site under this subsection terminates on September 1, 2015, unless there is an affirmative vote by a proposed project sponsor to make expenditures necessary in order to construct or file applications for permits required in connection with the construction of the reservoir under federal or state law.

SECTION 4.02. DESIGNATION OF SITES OF UNIQUE ECOLOGICAL VALUE. Provides that the legislature designates, as authorized by Section 16.051(f), Water Code, those river or stream segment sites recommended in the 2007 state water plan as being of unique ecological value.

SECTION 4.03. RESTRICTION ON ELIGIBILITY TO HOLD WATER RIGHTS; LIABILITY FOR CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS. (a) Provides that this section applies only to the proposed Marvin Nichols and Lake Fastrill reservoirs.

(b) Requires the right to appropriate at least 20 percent of the quantity of water that is authorized to be appropriated from each proposed reservoir to be held by one or more entities located in the regional water planning area in which the reservoir is to be located.

(c) Requires an entity or entities, if one or more entities located outside the regional water planning area in which a proposed reservoir is to be located are to hold the right to appropriate a majority of the quantity of water that is authorized to be appropriated from the reservoir, to pay all of the costs of constructing, operating, and maintaining the reservoir until such time as one or more entities located in the regional water planning area in which the reservoir is located begins diverting water. Requires the entity or entities making a diversion, at such time, to pay a pro-rata share of the cost of operating and maintaining the reservoir.

SECTION 4.04. STUDY COMMISSION ON REGION C WATER SUPPLY. (a) Establishes the Study Commission on Region C Water Supply (study commission). Sets forth the composition of the six-member study commission.

- (b) Authorizes, but does not require, a member of the study commission to be a voting member of the regional water planning group that appointed the member.
- (c) Requires the members of the study commission to elect a presiding officer from among the members.
- (d) Provides that members of the study commission are not entitled to compensation for service on the study commission, but authorizes such members to be reimbursed for travel expenses incurred while conducting the businesses of the study commission, as provided for in the General Appropriations Act.
- (e) Requires the study commission to perform certain duties.
- (f) Prohibits the study commission from being assisted by any person that is a party to or is employed by a party to a contract to perform engineering work with respect to site selection, permitting, design, or construction of the proposed Marvin Nichols reservoir.
- (g) Authorizes TWDB, on request of the study commission, to provide staff support or other assistance necessary to enable the study commission to carry out its duties. Requires TWDB to providing funding for the study commission, including funding of any studies conducted by the study commission, from the regional planning budget of the board.
- (h) Requires the study commission, not later than December 1, 2010, to deliver a report to certain elected officials containing certain information.
- (i) Abolishes the study commission and provides that this section expires on December 31, 2011.

SECTION 4.05. EFFECTIVE DATE. Effective date of this article: upon passage or September 1, 2007.

ARTICLE 5. LEGISLATIVE JOINT INTERIM COMMITTEE

SECTION 5.01. (a) Defines "committee."

- (b) Sets forth the composition for the eight-member joint interim committee on state water funding (committee).
- (c) Provides that an appointed member of the committee serves at the pleasure of the appointing official.
- (d) Requires the committee to meet at least annually with the executive director of TCEQ and the executive administrator of TWDB to receive information on water infrastructure needs as identified in the state water plan, receive information on infrastructure cost and funding options to be used by local entities to meet the needs identified in the state water plan, receive analyses of the funding gap and recommendations on how to address those funding needs, receive information on whether all water fees assessed are sufficient to support the required regulatory water-related state program functions and activities, and identify viable, sustainable, dedicated revenues and fee sources, or increases to existing revenue and fees, to support state water programs and to provide for natural resources data collection and dissemination, financial assistance programs, and water resources planning, including funding to implement water management strategies in the state water plan.
- (e) Authorizes the committee to hold hearings and request reports and other information from state agencies as necessary to carry out this section.
- (f) Requires the Senate Committee on Natural Resources and the House Committee on Natural Resources to provide staff necessary for the committee to fulfill its duties.

(g) Requires the committee to report to the governor, the lieutenant governor, and the speaker of the house of representatives on the committee's activities under Subsection (d) of this section by December 1, 2008. Requires the report to include recommendations of any legislative action necessary to address funding needs to support the state's water programs and water infrastructure needs.

ARTICLE 6. WATER DEVELOPMENT BOARD

SECTION 17. Amends Section 16.344, Water Code, by adding Subsections (d) through (i), as follows:

(d) Authorizes a political subdivision to continue temporarily to receive funds under Subchapter K (Assistance to Economically Distressed Areas for Water Supply and Sewer Service Projects), Chapter 17, if the political subdivision submits a request for temporary continuation of funding and TWDB makes certain determinations set forth in this subsection, notwithstanding Section 16.343(g) or 16.350(a) (requiring a political subdivision, or county or municipality that applies for or receives funds or financial assistance under Section 15.407 of this code or Subchapter K, Chapter 17, of this code, to adopt the model rules pursuant to Section 16.343 before a fund application may be considered by the board).

(e) Requires the board, in applying Subsection (d) to applications for increased financial assistance, to consider only areas that were included in the initial application, except that it is authorized to reconsider the eligibility of areas that were the subject of a facility plan in the initial application and may be determined to be eligible based on criteria in effect September 1, 2005.

(f) Requires the political subdivision to take necessary and appropriate actions to correct any deficiencies in its adoption and enforcement of the model rules within the time period required by the board, not to exceed the 90-day period described by Subsection (d)(4), and provide evidence of compliance to the board. Requires the board to discontinue funding unless it makes a determination based on the evidence provided that the political subdivision has demonstrated sufficient compliance to continue funding.

(g) Requires the board, if the board determines that a county or city that is required to adopt and enforce the model rules is not enforcing the model rules, to discontinue funding for all projects within the county or city that are funded under Subchapter K, Chapter 17, except as provided by Subsections (d)-(f).

(h) Prohibits the board from accepting or granting applications for temporary funding under Subsection (d) after June 1, 2009.

(i) Provides that Subsections (d), (e), (f), (g), and (h) and this subsection expire September 1, 2009.

ARTICLE 7. RATE CLASSES FOR BILLING

SECTION 7.01. Amends Subchapter H, Chapter 49, Water Code, by adding Section 49.2122, as follows:

Sec. 49.2122. ESTABLISHMENT OF CUSTOMER CLASSES. (a) Authorizes a water conservation district, notwithstanding any other law, to establish different charges, fees, rentals, or deposits among classes of customers that are based on any factor the district considers appropriate, including certain factors.

(b) Provides that a water conservation district is presumed to have weighed and considered appropriate factors and to have properly established charges, fees, rentals, and deposits absent a showing that the district acted arbitrarily and capriciously.

ARTICLE 8. STUDY OF ROLE OF LAKE SOMERVILLE IN ECONOMIC DEVELOPMENT

SECTION 8.01. Sets forth legislative findings regarding the history of Lake Somerville and its role in economic development.

SECTION 8.02. Requires the Brazos River Authority and the Lower Colorado River Authority to conduct, with appropriate input from public and private sectors, a joint baseline study of the role of Lake Somerville in the economic development of the surrounding vicinity and jointly submit a full report of their findings and recommendations to the 81st Legislature when the legislature convenes in January 2009.

ARTICLE 9. AGUA SPECIAL UTILITY DISTRICT

SECTION 9.01. Amends the heading to Section 7201, Special District Local Laws Code, to read as follows:

CHAPTER 7201. AGUA SPECIAL UTILITY DISTRICT

SECTION 9.02. Amends Section 7201.001, Special District Local Laws Code, by amending Subdivision (3) and adding Subdivision (4), to redefine "district" and define "director."

SECTION 9.03. Amends Section 7201.002(c), Special District Local Laws Code, as follows:

(c) Requires the La Joya Water Supply Corporation to be dissolved and succeeded without interruption by the Agua Special Utility District (district) as provided by Subchapter A1 (Temporary Provisions).

SECTION 9.04. Amends Section 7201.005, Special District Local Laws Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Provides that the district is composed of the territory described by Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection. Deletes existing text relating to the boundaries of the corporation.

(b) Provides that the boundaries and field notes contained in Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this section form a closure. Provides that a mistake made in the field notes or in copying the field notes in the legislative process does not affect certain matters. Deletes existing text providing that a mistake made in the preparation, copying, or filing of the maps described by Subsection (a) and on file with TCEQ does not affect certain matters.

(d) Provides that the territory of the district does not include and the district does not have jurisdiction over land that has never been in the service area of the corporation regardless of any erroneous inclusion of that land in the boundaries and field notes in Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection.

SECTION 9.05. Amends Section 7201.021, Special District Local Laws Code, by amending Subsections (a), (b), and (d) and adding Subsection (f), as follows:

(a) Requires the receiver of the corporation, except as provided by this subsection, after the appointment of initial directors of the board of the district (initial director; board) under Section 7201.051, rather than after the effective date of this Act, to transfer the assets, debts, and contractual rights and obligations of the corporation, including all legal claims against the corporation in effect on the date of the transfer, to the district and provide notices and make recordings of the transfer required by the Water Code and general law. Requires the receiver of the corporation to initiate proceedings to obtain that permission if the transfer of any debt requires the permission of the lender.

(b) Requires the receiver for the corporation, rather than the board of directors of the corporation, to commence dissolution proceedings of the corporation in accordance with

the orders of the receivership court and not later than the 30th day after the date of the transfer under Subsection (a).

(d) Requires the receiver for the corporation to notify TCEQ of the dissolution of the corporation and its succession in interest by the district in order to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district. Deletes existing text requiring the board of the corporation to notify TCEQ of the dissolution of the corporation and the creation of the district to replace it to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district.

(f) Requires the court to terminate the receivership after TCEQ takes the action required by Subsection (e).

SECTION 9.06. Amends Section 7201.022, Special District Local Laws Code, as follows:

Sec. 7201.022. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2012, rather than September 1, 2008.

SECTION 9.07. Amends Section 7201.051, Special District Local Laws Code, as follows:

Sec. 7201.051. New heading: APPOINTMENT OF INITIAL DIRECTORS.

(a) Requires seven initial directors to be appointed as provided by this section as soon as practicable after the effective date of the of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection. Deletes existing text relating to the service of the directors of the corporation.

(b) Requires an individual to meet the same requirements as a candidate for an elected position as director under Section 7201.052 to be eligible to be appointed as an initial director. Sets forth a certain method for appointing the initial directors. Deletes existing text naming the temporary directors of the district.

(c) Provides that an initial director serves a term that expires on June 1 of the year in which the director's successor is elected under Section 7201.052. Deletes existing text relating to the appointment of a person if there is a vacancy on the temporary board of directors of the district.

SECTION 9.08. Amends Subchapter B, Chapter 7201, Special District Local Laws Code, by adding Sections 7201.0512 and 7201.0513, as follows:

Sec. 7201.0512. INITIAL BOARD TRAINING. (a) Requires each initial director, not later than the 60th day after the first date on which all of the initial directors have been appointed, to complete at least 12 hours of training on district management and compliance with laws applicable to the district as determined by the receiver for the corporation.

(b) Requires the district to reimburse a temporary director for the reasonable expenses incurred by the director in attending the training.

Sec. 7201.0513. EDUCATION PROGRAM. (a) Requires the initial board to establish a program of education for directors that includes certain information before the first election of directors under Section 7201.052.

(b) Requires the district to pay any costs associated with the development of the education program from district revenue.

(c) Authorizes the education program to include training provided by an organization offering courses that have been approved by TCEQ.

(d) Authorizes the board to adopt bylaws modifying the education program as necessary to meet district needs.

SECTION 9.09. Amends Section 7201.052, Special District Local Laws Code, as follows:

Sec. 7201.052. BOARD OF DIRECTORS. (a) Requires the district to be governed by a board of seven directors, rather than not fewer than nine and not more than 11 directors, elected by specified electorates.

(b) Requires a candidate for one of the numbered director positions to reside in the part of the service area of the district that is not included in any of the municipalities listed in Subsections (a)(1)-(4), and to be eligible to hold office under Section 141.001 (Eligibility Requirements for Public Office), Election Code. Deletes existing text providing that a candidate for a position as a director is elected at large.

(c) Requires a candidate for one of the director positions representing a municipality listed in Subsection (a)(1), (2), (3), or (4) to reside in the municipality of the candidate seeks to represent, and to be eligible to hold office under Section 141.001 (Eligibility Requirements for Public Office), Election Code.

(d) Redesignated from Subsection (c).

(e) Redesignated from Subsection (d).

(f) Provides that directors serve staggered terms of four years, rather than three years, except for initial directors appointed, rather than listed, under Section 7201.051. Makes a conforming change.

(g) Requires the district to hold an election to elect seven directors on the uniform election date in May 2008, or in May 2010, if the election is postponed under Subsection (h). Requires the district to hold an election to elect the appropriate number of directors, rather than three directors to serve in positions 1, 4, and 7, on the uniform election date in May of each even-numbered year, rather than every third year.

(h) Authorizes the initial board by order to postpone the first election for directors under Subsection (g) until the uniform election date in May 2010, if the initial board determines that there is not sufficient time to comply with the requirements of law and to order the election of directors to be held on the first uniform election date specified by that subsection. Deletes existing text providing for the election of three members in positions 6, 8, and 9 on a certain date.

(i) Requires the directors elected at the first election under Subsection (g) to cast lots to determine which three directors are required to serve terms expiring June 1 of the first even-numbered year after the year in which the directors are elected and which four directors are required to serve terms expiring June 1 of the second even-numbered year after the year in which the directors are elected.

(j) Prohibits a director from serving consecutive terms.

(k) Provides that a person who has served as a member of the board of directors of the corporation is not eligible to serve as a district director.

(l) Provides that if, before the expiration of the term of a director elected to represent a municipality under Subsection (a)(1), (2), (3), or (4), the district determines that all of the incorporated territory of the municipality is outside the boundaries of the district, the position immediately becomes an at-large numbered position to be filled at the next general election of the district in accordance with Subsections (a)(5) and (b). Deletes existing text providing for the election of three members in positions 2, 3, and 5 on a certain date.

SECTION 9.10. Amends Subchapter B, Chapter 7201, Special District Local Laws Code, by adding Sections 7201.053 and 7201.054, as follows:

Sec. 7201.053. DISTRICT TREASURER. (a) Requires the board to elect from among its members one director to serve as district treasurer.

(b) Requires the district treasurer to comply with the training requirements provided by Section 49.1571 (Investment Officer), Water Code, for an investment officer of a district.

Sec. 7201.054. EDUCATION FOR DIRECTORS. (a) Requires each elected director, except for an initial director whose term expires in 2008, to complete the education program established under Section 7201.0513 before the first anniversary of the date on which the director was appointed or elected.

(b) Requires the district to reimburse a director for the reasonable expenses incurred by the director in attending the education program.

(c) Requires a director who is elected to serve a subsequent term to fulfill the education requirements specified by the district bylaws.

SECTION 9.11. Amends Section 7201.206, Special District Local Laws Code, as follows:

Sec. 7201.206. New heading: RATES AND FEES FOR SERVICES. (a) Creates this subsection from existing text.

(b) Provides that Chapter 395, Local Government Code, does not apply to any fee, charge, or assessment that, before the corporation's dissolution and conversion to a district, is adopted by the receiver for the purpose of generating revenue to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new developments.

(c) Prohibits the district, notwithstanding Subsection (b), beginning on December 31, 2009, from imposing any fee, charge, or assessment that, before the corporation's dissolution and conversion to a district, is adopted by the receiver for the purpose of generating revenue to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new developments unless the district readopts the fee, charge, or assessment or adopts a new fee, charge, or assessment in accordance with Chapter 395, Local Government Code. Provides that this subsection does not apply to a retail water or sewer rate adopted by the receiver or the district.

SECTION 9.12. Sets forth the boundaries of the district.

SECTION 9.13. Requires the initial directors of the board to be appointed in accordance with section 7201.051, Special District Local Laws Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 9.14. Provides that except as otherwise provided by Chapter 7201 (Agua Special Utility District), Special District Local Laws Code, as amended by this Act, the Agua Special Utility District is subject to any judicial or administrative order imposing an injunction against the La Joya Water Supply Corporation that is in effect on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act, or any judicial or administrative order imposing liability for monetary damages or a civil or administrative penalty against the La Joya Water Supply Corporation that is unsatisfied on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act.

SECTION 9.15. (a) Provides that the legal notice of the intention to introduce the article of this Act that amends Chapter 7201, Special District Local Laws Code, setting forth the general substance of the article, has been published as provided by law, and the notice and a copy of the article have been furnished to all persons, agencies, officials, or entities to which they are

required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313 (Notice For Local and Special Laws), Government Code.

(b) Provides that the governor has submitted the notice and article to TCEQ.

(c) Provides that TCEQ has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 9.16. Effective date of this article: upon passage or September 1, 2007.

ARTICLE 10. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SECTION 10.01. Amends Subtitle F, Title 6, Special District Local Laws Code, by adding Chapter 8269, as follows:

CHAPTER 8269. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

Sets forth standard language for the creation of the True Ranch Municipal Utility District No. 1 in Hays County (district). Sets forth standards, procedures, requirements, and criteria for:

Creation and approval of the district (Sections 8269.001 - 8269.020);

Size, composition, election, and terms of the board of directors of the district (Sections 8269.021 - 8269.100);

Powers and duties of the district (Section 8269.101 - 8269.150); and

General financial provisions and authority to impose taxes and to issue bonds and obligations for the district (Sections 8269.151 - 8269.202).

Authorizes the use of eminent domain by the district.

SECTION 10.02. Sets forth the initial boundaries of the district.

SECTION 10.03. Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 10.04. Effective date of this article: upon passage or September 1, 2007.

ARTICLE 11. TABLEROCK GROUNDWATER CONSERVATION DISTRICT

SECTION 11.01. Amends Subtitle H, Title 6, Special District Local Laws Code, by adding Chapter 8823, as follows:

CHAPTER 8823. TABLEROCK GROUNDWATER CONSERVATION DISTRICT

Sets forth standard language for the creation of the Tablerock Groundwater Conservation District (district) in Coryell County. Sets forth standards, procedures, requirements, and criteria for:

Creation and approval of the district (Sections 8823.001-8823.020);

Size, composition, appointment, and terms of the board of directors of the district (Sections 8823.021-8823.100);

Powers and duties of the district (Sections 8823.101-8823.150);

General financial provisions and authority to impose taxes and fees and to issue bonds and obligations for the district (Sections 8823.151-8823.200); and

Election for dissolution of the district (Section 8823.201).

Prohibits the exercise of the power of eminent domain by the district.

SECTION 11.02. Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

ARTICLE 12. EDWARDS AQUIFER AUTHORITY

SECTION 12.01. Amends Section 1.11(f), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(f) Authorizes the Edwards Aquifer Authority (authority) to own, finance, design, construct, operate, or maintain recharge facilities. Deletes existing text authorizing the authority to contract with a person who uses water from the Edwards Aquifer (aquifer) for certain purposes. Deletes existing text as it relates to management fees or special fees. Defines "recharge facility." Deletes existing text defining "water supply facility."

(f-1) Requires the authority to provide written notice to certain persons and entities of the intent to own, finance, design, construct, operate, or maintain recharge facilities.

(f-2) Requires any entity within the county in which a recharge facility is to be constructed to be provided opportunity for input and allowed to provide proposals for partnering with the authority to own, finance, design, construct, operate, or maintain the recharge facility.

SECTION 12.02. Amends Sections 1.14(a), (c), (e), (f), and (h), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(a) Requires authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act to be limited in accordance with this section to recognize the extent of the hydro-geologic connection and interaction between surface water and groundwater. Makes conforming changes.

(c) Prohibits the amount of permitted withdrawals from the aquifer, for the period beginning January 1, 2008, from exceeding or being less than 572,000 acre-feet of water for each calendar year, which is the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005, except as provided by Subsection (f) and (h). Deletes existing text prohibiting the amount of permitted withdrawals from the aquifer from exceeding 400,000 acre-feet of water for each calendar year.

(e) Prohibits the authority from allowing withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement, test, or exempt wells or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit, rather than except for additional water as provided by Subsection (d) and then on an interruptible basis.

(f) Authorizes the authority, if the level of the aquifer is equal to or greater than 660 feet, rather than 650 feet, above mean sea level as measured at Well J-17, to authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. Deletes existing text requiring the authority to limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

(h) Requires the authority, to accomplish the purposes of this article, to implement and enforce, through a program, water management practices, procedures and methods to

ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this Article. Deletes existing text requiring the authority to accomplish the purposes of this article by June 1, 1994. Requires the authority to require phased adjustments to, rather than reduction in, the amount of water that may be used or withdrawn by existing users or categories of other users, including adjustments in accordance with the authority's critical period management plan (plan) established under Section 1.26 of this article.

SECTION 12.03. Amends Section 1.16(g), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to require the authority to issue an initial regular permit without a term, and an initial permit remains in effect until the permit is abandoned or cancelled, rather than abandoned, cancelled, or retired.

SECTION 12.04. Amends Section 1.19(b), Chapter 626, Act of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Requires that withdrawal of water under a term permit be consistent with the authority's plan established under Section 1.26 of this article. Prohibits a holder of a term permit from withdrawing water from the San Antonio Pool of the aquifer unless the level of the aquifer is higher than 675 feet, rather than 665 feet, above sea level, as measured at Well J-17; the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second; and the flow at San Marcos Springs as determined by Section 1.26(c) of this article is greater than 200 cubic feet per second.

SECTION 12.05. Amends Section 1.22(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(a) Deletes existing text authorizing the authority to acquire permitted rights to use water from the aquifer for the purpose of holding those rights for retirement as a means of complying with pumping reduction requirements under this article; or retiring those right, including those rights already permitted.

SECTION 12.06. Amends Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by amending Section 1.26 and adding Section 1.26A, as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) Requires the authority, after review of the recommendations received in the program document, as prescribed by Section 1.26A of this article, by rule to adopt a critical period management plan (plan) consistent with Sections 1.14(a), (f), and (h) of this article. Requires the plan to be adopted by the authority no later than six months after the authority's receipt of the program document. Requires the authority, on adoption of the plan, to provide a written report to certain government officials describing the actions taken in response to each recommendation and, for each recommendation not implemented, the reason it was not implemented. Requires the plan, rather than mechanisms, to include certain information. Sets forth the information to be included in the plan. Requires the plan to allow irrigation use to continue in order to permit the user to complete the irrigation of a crop in progress. Deletes exiting text requiring the authority to prepare and coordinate implementation of a plan for critical period management by a certain period.

(b) Defines "MSL" and "CFS." Requires the authority, not later than January 1, 2008, by rule to adopt and enforce a plan with withdrawal reduction percentages in the amounts indicated in Tables 1 (Critical Period Withdrawal Reduction Stages for the Sana Antonio Pool) and 2 (Critical Period Withdrawal Reduction Stages for the Uvalde Pool), whether according to the index well levels or the Comal or San Marcos Springs flow as applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 35 percent under Table 2. Provides Tables 1 and 2.

(c) Provides that a change to a critical period stage with higher withdrawal reduction percentages is triggered if the 10-day average of daily springflows at the Comal Springs or the San Marcos Springs or the 10-day average of daily aquifer levels at the J-17 Index Well drops below the lowest number of any of the trigger levels indicated in Table 1. Provides that a change to a critical stage with lower withdrawal reduction percentages is triggered only when the 10-day average of daily springflows at the Comal Springs and the San Marcos Springs and the 10-day average of daily aquifer levels at the J-17 Index Well are above the same stage trigger level. Authorizes the authority to adjust the withdrawal percentages for Stage IV in Tables 1 and 2 if necessary in order to comply with Subsection (d) or (e) of this section.

(d) Prohibits the authority from requiring the volume of permitted withdrawals to be less than an annualized rate of 340,000 acre-feet, under critical Stage IV, beginning September 1, 2007.

(e) Prohibits the authority from requiring the volume of permitted withdrawals to be less than an annualized rate of 320,000 acre-feet, under critical period Stage IV unless, after January 1, 2013, after review and consideration by the authority of the recommendations provided under Section 1.26A of this article, and determination that a different volume of withdrawals is consistent with Sections 1.14(a), (f), and (h) of this article in maintaining protection for federally listed threatened and endangered species associated with the aquifer to the extent required by federal law.

(f) Authorizes the authority, notwithstanding Subsections (d) and (e) of this section, to require further withdrawal reductions before reviewing and considering the recommendations provided under Section 1.26A of this article if the discharge of Comal Springs or San Marcos Springs declines an additional 15 percent after Stage IV withdrawal reductions are imposed under Subsection (b) of this section. Provides that this subsection expires on the date that plan rules adopted by the authority based on the recommendations provided under Section 1.26A of this article take effect.

(g) Requires a person authorized to withdraw groundwater from the aquifer for irrigation purposes to, without regard to the withdrawal reductions prescribed for that stage, be allowed to finish a crop already planted in the calendar year during which the critical period is in effect, notwithstanding the existence of any stage of an interim or final critical period adopted by the authority under this section.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY IMPLEMENTATION PROGRAM. (a) Requires the authority, with the assistance of Texas A&M University (TAMU), to cooperatively develop a recovery implementation program through a facilitated, consensus-based process that involves input from the United States Fish and Wildlife Service, other appropriate federal agencies, and all interested stakeholders, including those listed under Subsection (e)(1) of this section. Requires the implementation program to be developed for the species that are listed as threatened or endangered species under federal law and are associated with the aquifer.

(b) Requires the authority to enter into a memorandum of agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, TCEQ, TPWD, the Texas Department of Agriculture (TDA), and TWDB, and other stakeholders, not later than December 31, 2007, in order to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section.

(c) Requires the authority to enter into an implementing agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, TCEQ, TPWD, TDA, TWDB, and other stakeholders to develop a program document that may be in the form of a habitat conservation plan used in issuance

of an incidental take permit as outlined in Subsection (d) not later than December 31, 2009.

(d) Requires the authority, TCEQ, TPWD, TDA, TWDB, and other stakeholders to jointly prepare a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit with the United States secretary of the interior, through the United States Fish and Wildlife Service and other appropriate federal agencies, under Section 4 or Section 6, Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as applicable, based on the program developed under Subsection (a) of this section. Sets forth the requirements for the program document.

(e) Requires TAMU to assist in the creation of a steering committee (committee) to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. Requires the committee to be created not later than September 30, 2007. Sets forth the required composition of the committee.

(f) Requires the committee to work with TAMU to establish a regular meeting schedule and publish that schedule to encourage public participation; and not later than October 31, 2007, hire a program director to be housed at TAMU.

(g) Authorizes TAMU to accept outside funding to pay the salary and expenses of the program director hired under this section and any expenses associated with the university's participation in the creation of the committee or subcommittees established by the committee.

(h) Requires that where reasonably practicable or as required by law, any meeting of the committee, the Edwards Aquifer area expert science subcommittee, or another subcommittee established by the committee be open to the public.

(i) Requires the committee appointed under this section to appoint an Edwards Aquifer area expert science subcommittee (subcommittee) not later than December 31, 2007. Requires the subcommittee be composed of an odd number of not fewer than seven or more than 15 members who have technical expertise regarding the Edwards Aquifer system, the threatened and endangered species that inhabit that system, springflows, or the development of withdrawal limits. Requires the Bureau of Economic Geology at The University of Texas at Austin and the River Systems Institute at Texas State University to assist the subcommittee. Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the subcommittee.

(j) Requires the subcommittee to analyze, among other things, species requirements in relation to spring discharge rates and aquifer levels as a function of recharge and withdrawal levels. Requires the subcommittee, through a collaborative process designed to achieve consensus, to develop recommendations for withdrawal reduction levels and stages for critical period management based on certain criteria, including, if appropriate, establishing separate and possibly different withdrawal reduction levels and stages for critical period management for different pools of the aquifer needed to maintain target spring discharge and aquifer levels. Requires the subcommittee to submit its recommendations to the committee and all other stakeholders involved in the recovery implementation program under this section.

(k) Requires the initial recommendations of the subcommittee to be completed and submitted to the committee and other stakeholders not later than December 31, 2008, and provides that the recommendations should include certain evaluations.

(l) Requires the subcommittee, in developing its recommendations, to consider all reasonably available science, including any Edwards Aquifer-specific studies, and

base its recommendations solely on the best science available, and operate on a consensus basis to the maximum extent possible.

(m) Requires the committee, after development of the cooperative agreement, with the assistance of the subcommittee and with input from the other recovery implementation program stakeholders, to prepare and submit recommendations to the authority. Require that certain recommendations be submitted to the authority.

(n) Defines "recharge facility." Requires the committee to establish a recharge facility feasibility subcommittee (feasibility committee) to assess the need for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; formulate plans to allow the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; make recommendations to the steering committee as to how to calculate the amount of additional water that is made available for use from a recharge project including during times of critical period reductions; maximize available federal funding for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; and evaluate the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating facilities.

(o) Authorizes the committee to establish other subcommittees as necessary, including a hydrology subcommittee, a community outreach and education subcommittee, and a water supply subcommittee.

(p) Authorizes the committee described by Subsection (d), on execution of the memorandum of agreement described by Subsection (b) of this section, to vote to add members to the committee, change the makeup of the committee, or dissolve the committee, by majority vote of its members. Requires the program director hired under Subsection (f) to assume the duties of the committee if it is dissolved.

(q) Requires the authority to provide an annual report to certain elected government officials not later than January 1 of each year that details certain information.

SECTION 12.07. Amends Sections 1.29(b), (h), and (i), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Authorizes each water district governed by Chapter 36, rather than Chapter 52, Water Code, that is within the authority's boundaries to contract with the authority to pay certain expenses.

(h) Prohibits fees assessed by the authority from being used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements. Deletes existing text prohibiting certain special fees to be used to finance a surface water supply reservoir project.

(i) Requires the authority and other stakeholders, including state agencies, listed under Section 1.26A of this Article to provide money as necessary to finance the activities of the committee and any subcommittees appointed by the committee and the program director of the recovery implementation program under Section 1.26A of this Article. Requires the authority to provide, as necessary, up to \$75,000 annually, adjusted for changes in the consumer price index, rather than money as necessary, but not to exceed five percent of the money collected under Subsection (d) of this section, to finance the South Central Texas Water Advisory committee's administrative expenses and programs authorized under this article.

SECTION 12.08. Amends Section 1.45(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(a) Authorizes the authority to own, finance, design, construct, operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or SRC-ARA, CAS S.B. 3 80(R)

recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, the recharge project does not impair senior water rights or vested riparian rights, and the recharge project is not designed to recirculate water at Comal or San Marcos Springs.

SECTION 12.09. Repealer: Sections 1.14(b) and (d), 1.21, and 1.29(a), (c), and (d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 12.10. (a) Prohibits a suit from being instituted in a state court before January 1, 2012, contesting the validity or implementation of this article, or the groundwater withdrawal amounts recognized in Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, as amended by this Act.

(b) Requires, if applicable, a party to be automatically removed from the committee established under Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this article.

(c) Prohibits a suit against the authority from being instituted or maintained by a person who owns, holds, or uses a surface water rights and claims injury or potential injury to that right for any reason, including any actions taken by the authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended. Provides that this section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 12.11. Makes application of this article prospective.

SECTION 12.12. Effective date of this article: upon passage or September 1, 2007.

ARTICLE 13. TERRITORY OF CULBERSON COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION 13.01. Amends Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, by adding Section 3A, to provide that in addition to the portions of Culberson County included in the boundaries of the Culberson County Groundwater Conservation District (district) on August 31, 2007, the boundaries of the district include all of the remaining territory in Culberson County.

SECTION 13.02. (a) Provides that the annexation under Section 3A, Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, as added by this article, of the additional territory in Culberson County that was not included in the boundaries of the district on August 31, 2007, is subject to ratification at an election held under Section 36.328, Water Code, and this section in which only the voters residing in the territory to be annexed are eligible to vote.

(b) Requires the board of directors of the district to hold the ratification election on the first uniform election date that occurs after the effective date of this article that allows for compliance with the time requirements of the Election Code.

(c) Provides that if the majority of the voters voting at the ratification election vote in favor of the annexation the district boundaries include all of Culberson County.

(d) Provides that if the majority of the voters voting at the ratification election do not vote in favor of the annexation, the district boundaries are unchanged and this article expires.

ARTICLE 14. EFFECTIVE DATE

SECTION 14.01. Effective date: September 1, 2007, except as otherwise provided by this Act.