

By: Puente

H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the management of the water resources of the state,
3 including the protection of instream flows and freshwater inflows.

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

5 SECTION 1. The heading to Section 5.506, Water Code, is
6 amended to read as follows:

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

11 SECTION 2. Section 5.506, Water Code, is amended by adding
12 Subsection (a-1) and amending Subsections (b) and (c) to read as
13 follows:

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

20 (b) The commission must give written notice of the proposed
21 action [~~suspension~~] to the Parks and Wildlife Department before the
22 commission suspends a permit condition under Subsection (a) or
23 makes water available temporarily under Subsection (a-1) [~~this~~
24 ~~section~~]. The commission shall give the Parks and Wildlife

1 Department an opportunity to submit comments on the proposed action
2 [~~suspension~~] for a period of 72 hours from receipt of the notice and
3 must consider those comments before issuing an order implementing
4 the proposed action [~~imposing the suspension~~].

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

9 SECTION 3. Section 5.701(j), Water Code, is amended to read
10 as follows:

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

18 SECTION 4. Section 11.002, Water Code, is amended by adding
19 Subdivisions (15), (16), (17), (18), and (19) to read as follows:

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

24 (16) "Environmental flow regime" means a schedule of
25 flow quantities that reflects seasonal and yearly fluctuations that
26 typically would vary geographically, by specific location in a
27 watershed, and that are shown to be adequate to support a sound

1 ecological environment and to maintain the productivity, extent,
2 and persistence of key aquatic habitats in and along the affected
3 water bodies.

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

6 (18) "Advisory group" means the environmental flows
7 advisory group.

8 (19) "Science advisory committee" means the Texas
9 environmental flows science advisory committee.

10 SECTION 5. Section 11.023(a), Water Code, is amended to
11 read as follows:

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

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

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

22 (3) mining and recovery of minerals;

23 (4) hydroelectric power;

24 (5) navigation;

25 (6) recreation and pleasure;

26 (7) public parks; and

27 (8) game preserves.

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

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

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

22 (d-2) The legislature finds that:

23 (1) in those basins in which water is available for
24 appropriation, the commission should establish an environmental
25 set-aside below which water should not be available for
26 appropriation; and

27 (2) in those basins in which the unappropriated water

1 that will be set aside for instream flow and freshwater inflow
2 protection is not sufficient to fully satisfy the environmental
3 flow standards established by the commission, a variety of market
4 approaches, both public and private, for filling the gap must be
5 explored and pursued.

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

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

27 (d-5) The legislature finds that recommendations for state

1 action to protect instream flows and freshwater inflows should be
2 developed through a consensus-based, regional approach involving
3 balanced representation of stakeholders and that such a process
4 should be encouraged throughout the state.

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

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

20 SECTION 7. Subchapter B, Chapter 11, Water Code, is amended
21 by adding Sections 11.0236, 11.02361, 11.02362, and 11.0237 to read
22 as follows:

23 Sec. 11.0236. ENVIRONMENTAL FLOWS ADVISORY GROUP. (a) In
24 recognition of the importance that the ecological soundness of our
25 riverine, bay, and estuary systems and riparian lands has on the
26 economy, health, and well-being of the state there is created the
27 environmental flows advisory group.

1 (b) The advisory group is composed of nine members as
2 follows:

- 3 (1) three members appointed by the governor;
4 (2) three members of the senate appointed by the
5 lieutenant governor; and
6 (3) three members of the house of representatives
7 appointed by the speaker of the house of representatives.

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

- 9 (1) one member must be a member of the commission;
10 (2) one member must be a member of the board; and
11 (3) one member must be a member of the Parks and
12 Wildlife Commission.

13 (d) Each member of the advisory group serves at the will of
14 the person who appointed the member.

15 (e) The appointed senator with the most seniority and the
16 appointed house member with the most seniority serve together as
17 co-presiding officers of the advisory group.

18 (f) A member of the advisory group is not entitled to
19 receive compensation for service on the advisory group but is
20 entitled to reimbursement of the travel expenses incurred by the
21 member while conducting the business of the advisory group, as
22 provided by the General Appropriations Act.

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

25 (h) The commission shall provide staff support for the
26 advisory group.

27 (i) The advisory group shall conduct public hearings and

1 study public policy implications for balancing the demands on the
2 water resources of the state resulting from a growing population
3 with the requirements of the riverine, bay, and estuary systems
4 including granting permits for instream flows dedicated to
5 environmental needs or bay and estuary inflows, use of the Texas
6 Water Trust, and any other issues that the advisory group
7 determines have importance and relevance to the protection of
8 environmental flows. In evaluating the options for providing
9 adequate environmental flows, the advisory group shall take notice
10 of the strong public policy imperative that exists in this state
11 recognizing that environmental flows are important to the
12 biological health of our public and private lands, streams and
13 rivers, and bay and estuary systems and are high priorities in the
14 water management process. The advisory group shall specifically
15 address:

16 (1) ways that the ecological soundness of those
17 systems will be ensured in the water rights administration and
18 enforcement and water allocation processes; and

19 (2) appropriate methods to encourage persons
20 voluntarily to convert reasonable amounts of existing water rights
21 to use for environmental flow protection temporarily or
22 permanently.

23 (j) The advisory group may adopt rules, procedures, and
24 policies as needed to administer this section, to implement its
25 responsibilities, and to exercise its authority under Sections
26 11.02361 and 11.02362.

27 (k) Chapter 2110, Government Code, does not apply to the

1 size, composition, or duration of the advisory group.

2 (1) Not later than December 1, 2008, and every two years
3 thereafter, the advisory group shall issue and promptly deliver to
4 the governor, lieutenant governor, and speaker of the house of
5 representatives copies of a report summarizing:

6 (1) any hearings conducted by the advisory group;

7 (2) any studies conducted by the advisory group;

8 (3) any legislation proposed by the advisory group;

9 (4) progress made in implementing Sections 11.02361
10 and 11.02362; and

11 (5) any other findings and recommendations of the
12 advisory group.

13 (m) The advisory group is abolished on the date that the
14 commission has adopted environmental flow standards under Section
15 11.1471 for all of the river basin and bay systems in this state.

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

20 (b) The advisory group shall appoint to the science advisory
21 committee persons who will provide an objective perspective and
22 diverse technical expertise, including expertise in hydrology,
23 hydraulics, water resources, aquatic and terrestrial biology,
24 geomorphology, geology, water quality, computer modeling, and
25 other technical areas pertinent to the evaluation of environmental
26 flows.

27 (c) Members of the science advisory committee serve

1 five-year terms expiring March 1. A vacancy on the science advisory
2 committee is filled by appointment by the co-presiding officers of
3 the advisory group for the unexpired term.

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

6 (e) The science advisory committee shall:

7 (1) serve as an objective scientific body to advise
8 and make recommendations to the advisory group on issues relating
9 to the science of environmental flow protection; and

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

12 (A) environmental flow methodologies for bay and
13 estuary studies and instream flow studies;

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

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

18 (f) To assist the advisory group to assess the extent to
19 which the recommendations of the science advisory committee are
20 considered and implemented, the commission, the Parks and Wildlife
21 Department, and the board shall provide written reports to the
22 advisory group, at intervals determined by the advisory group, that
23 describe:

24 (1) the actions taken by each agency in response to
25 each recommendation; and

26 (2) for each recommendation not implemented, the
27 reason it was not implemented.

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

3 Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME
4 RECOMMENDATIONS. (a) For the purposes of this section, the
5 advisory group, not later than November 1, 2007, shall define the
6 geographical extent of each river basin and bay system in this state
7 for the sole purpose of developing environmental flow regime
8 recommendations under this section and adoption of environmental
9 flow standards under Section 11.1471.

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

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

18 (2) the river basin and bay system consisting of the
19 Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the
20 river basin and bay system consisting of the Guadalupe, San
21 Antonio, and Aransas Rivers and Copano, Aransas, and San Antonio
22 Bays; and

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

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

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

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

8 (3) the basin and bay expert science team shall
9 finalize environmental flow regime recommendations and submit them
10 to the basin and bay area stakeholders committee, the advisory
11 group, and the commission not later than March 1, 2009;

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

16 (5) the commission shall adopt the environmental flow
17 standards as provided by Section 11.1471 not later than September
18 1, 2010.

19 (d) The advisory group shall appoint the basin and bay area
20 stakeholders committees for the river basin and bay systems listed
21 in Subsection (b)(2) not later than September 1, 2008, and shall
22 appoint the basin and bay area stakeholders committees for the
23 river basin and bay systems listed in Subsection (b)(3) not later
24 than September 1, 2009. The advisory group shall establish a
25 schedule for the performance of the tasks listed in Subsections
26 (c)(2) through (5) with regard to the river basin and bay systems
27 listed in Subsections (b)(2) and (3) that will result in the

1 adoption of environmental flow standards for that river basin and
2 bay system by the commission as soon as is reasonably possible.
3 Each basin and bay area stakeholders committee and basin and bay
4 expert science team for a river basin and bay system listed in
5 Subsection (b)(2) or (3) shall make recommendations to the advisory
6 group with regard to the schedule applicable to that river basin and
7 bay system. The advisory group shall consider the recommendations
8 of the basin and bay area stakeholders committee and basin and bay
9 expert science team as well as coordinate with, and give
10 appropriate consideration to the recommendations of, the
11 commission, the Parks and Wildlife Department, and the board in
12 establishing the schedule.

13 (e) For a river basin and bay system or a river basin that
14 does not have an associated bay system in this state not listed in
15 Subsection (b), the advisory group shall establish a schedule for
16 the development of environmental flow regime recommendations and
17 the adoption of environmental flow standards. The advisory group
18 shall develop the schedule in consultation with the commission, the
19 Parks and Wildlife Department, the board, and the pertinent basin
20 and bay area stakeholders committee and basin and bay expert
21 science team. The advisory group may, on its own initiative or on
22 request, modify a schedule established under this subsection to be
23 more responsive to particular circumstances, local desires,
24 changing conditions, or time-sensitive conflicts. This subsection
25 does not prohibit, in a river basin and bay system for which the
26 advisory group has not yet established a schedule for the
27 development of environmental flow regime recommendations and the

1 adoption of environmental flow standards, an effort to develop
2 information on environmental flow needs and ways in which those
3 needs can be met by a voluntary consensus-building process.

4 (f) The advisory group shall appoint a basin and bay area
5 stakeholders committee for each river basin and bay system in this
6 state for which a schedule for the development of environmental
7 flow regime recommendations and the adoption of environmental flow
8 standards is specified by or established under Subsection (c), (d),
9 or (e). Chapter 2110, Government Code, does not apply to the size,
10 composition, or duration of a basin and bay area stakeholders
11 committee. Each committee must consist of at least 17 members. The
12 membership of each committee must:

13 (1) reflect a fair and equitable balance of interest
14 groups concerned with the particular river basin and bay system for
15 which the committee is established; and

16 (2) be representative of stakeholders having
17 interests in the particular river basin and bay system for which the
18 committee is established, including:

19 (A) agricultural water users;

20 (B) recreational water users, including coastal
21 recreational anglers and businesses supporting water recreation;

22 (C) municipalities;

23 (D) soil and water conservation districts;

24 (E) industrial water users, including
25 representatives of each of the following sectors:

26 (i) refining;

27 (ii) chemical manufacturing;

1 (iii) electricity generation; and
2 (iv) production of paper products or
3 timber;

4 (F) commercial fishermen;

5 (G) public interest groups;

6 (H) regional water planning groups;

7 (I) groundwater conservation districts;

8 (J) river authorities and other conservation and
9 reclamation districts with jurisdiction over surface water; and

10 (K) environmental interests.

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

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

17 (i) Each basin and bay area stakeholders committee shall
18 establish a basin and bay expert science team for the river basin
19 and bay system for which the committee is established. The basin
20 and bay expert science team must be established not later than six
21 months after the date the basin and bay area stakeholders committee
22 is established. Chapter 2110, Government Code, does not apply to
23 the size, composition, or duration of a basin and bay expert science
24 team. Each basin and bay expert science team must be composed of
25 technical experts with special expertise regarding the river basin
26 and bay system or regarding the development of environmental flow
27 regimes. A person may serve as a member of more than one basin and

1 bay expert science team at the same time.

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

7 (k) The science advisory committee shall appoint one of its
8 members to serve as a liaison to each basin and bay expert science
9 team to facilitate coordination and consistency in environmental
10 flow activities throughout the state. The commission, the Parks
11 and Wildlife Department, and the board shall provide technical
12 assistance to each basin and bay expert science team, including
13 information about the studies conducted under Sections 16.058 and
14 16.059, and may serve as nonvoting members of the basin and bay
15 expert science team to facilitate the development of environmental
16 flow regime recommendations.

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

19 (m) Each basin and bay expert science team shall develop
20 environmental flow analyses and a recommended environmental flow
21 regime for the river basin and bay system for which the team is
22 established through a collaborative process designed to achieve a
23 consensus. In developing the analyses and recommendations, the
24 science team must consider all reasonably available science,
25 without regard to the need for the water for other uses, and the
26 science team's recommendations must be based solely on the best
27 science available. For the Rio Grande below Fort Quitman, any uses

1 attributable to Mexican water flows must be excluded from
2 environmental flow regime recommendations.

3 (n) Each basin and bay expert science team shall submit its
4 environmental flow analyses and environmental flow regime
5 recommendations to the pertinent basin and bay area stakeholders
6 committee, the advisory group, and the commission in accordance
7 with the applicable schedule specified by or established under
8 Subsection (c), (d), or (e). The basin and bay area stakeholders
9 committee and the advisory group may not change the environmental
10 flow analyses or environmental flow regime recommendations of the
11 basin and bay expert science team.

12 (o) Each basin and bay area stakeholders committee shall
13 review the environmental flow analyses and environmental flow
14 regime recommendations submitted by the committee's basin and bay
15 expert science team and shall consider them in conjunction with
16 other factors, including the present and future needs for water for
17 other uses related to water supply planning in the pertinent river
18 basin and bay system. For the Rio Grande, the basin and bay area
19 stakeholders committee shall also consider the water accounting
20 requirements for any international water sharing treaty, minutes,
21 and agreement applicable to the Rio Grande and the effects on
22 allocation of water by the Rio Grande watermaster in the middle and
23 lower Rio Grande. The Rio Grande basin and bay expert science team
24 may not recommend any environmental flow regime that would result
25 in a violation of a treaty or court decision. The basin and bay area
26 stakeholders committee shall develop recommendations regarding
27 environmental flow standards and strategies to meet the

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

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

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

18 (2) prescribe specific monitoring, studies, and
19 activities; and

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

25 (q) In accordance with the applicable schedule specified by
26 or established under Subsection (c), (d), or (e), the advisory
27 group, with input from the science advisory committee, shall review

1 the environmental flow analyses and environmental flow regime
2 recommendations submitted by each basin and bay expert science
3 team. If appropriate, the advisory group shall submit comments on
4 the analyses and recommendations to the commission for use by the
5 commission in adopting rules under Section 11.1471. Comments must
6 be submitted not later than six months after the date of receipt of
7 the analyses and recommendations.

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

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

14 Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO
15 ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The commission
16 may not issue a new permit for instream flows dedicated to
17 environmental needs or bay and estuary inflows. The commission may
18 approve an application to amend an existing permit or certificate
19 of adjudication to change the use to or add a use for instream flows
20 dedicated to environmental needs or bay and estuary inflows.

21 (b) This section does not alter the commission's
22 obligations under Section 11.042(b) or (c), 11.046(b),
23 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491,
24 11.150, 11.152, 16.058, or 16.059.

25 SECTION 8. Section 11.082(b), Water Code, is amended to
26 read as follows:

27 (b) The state may recover the penalties prescribed in

1 Subsection (a) [~~of this section~~] by suit brought for that purpose in
2 a court of competent jurisdiction. The state may seek those
3 penalties regardless of whether a watermaster has been appointed
4 for the water division, river basin, or segment of a river basin
5 where the unlawful use is alleged to have occurred.

6 SECTION 9. Section 11.0841, Water Code, is amended by
7 adding Subsection (c) to read as follows:

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

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

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

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

20 SECTION 10. Section 11.0842(a), Water Code, is amended to
21 read as follows:

22 (a) If a person violates this chapter, a rule or order
23 adopted under this chapter or Section 16.236 [~~of this code~~], or a
24 permit, certified filing, or certificate of adjudication issued
25 under this chapter, the commission may assess an administrative
26 penalty against that person as provided by this section. The
27 commission may assess an administrative penalty for a violation

1 relating to a water division or a river basin or segment of a river
2 basin regardless of whether a watermaster has been appointed for
3 the water division or river basin or segment of the river basin.

4 SECTION 11. Section 11.0843(a), Water Code, is amended to
5 read as follows:

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

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

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

20 SECTION 12. Section 11.134(b), Water Code, is amended to
21 read as follows:

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

23 (1) the application conforms to the requirements
24 prescribed by this chapter and is accompanied by the prescribed
25 fee;

26 (2) unappropriated water is available in the source of
27 supply;

1 (3) the proposed appropriation:

2 (A) is intended for a beneficial use;

3 (B) does not impair existing water rights or
4 vested riparian rights;

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

6 (D) considers any applicable environmental flow
7 standards established under Section 11.1471 and, if applicable, the
8 assessments performed under Sections 11.147(d) and (e) and Sections
9 11.150, 11.151, and 11.152; and

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

15 (4) the applicant has provided evidence that
16 reasonable diligence will be used to avoid waste and achieve water
17 conservation as defined by [~~Subdivision (8)(B),~~] Section
18 11.002(8)(B) [~~11.002~~].

19 SECTION 13. Section 11.147, Water Code, is amended by
20 amending Subsections (b), (d), and (e) and adding Subsections
21 (e-1), (e-2), and (e-3) to read as follows:

22 (b) In its consideration of an application for a permit to
23 store, take, or divert water, the commission shall assess the
24 effects, if any, of the issuance of the permit on the bays and
25 estuaries of Texas. For permits issued within an area that is 200
26 river miles of the coast, to commence from the mouth of the river
27 thence inland, the commission shall include in the permit any

1 conditions considered necessary to maintain freshwater inflows to
2 any affected bay and estuary system, to the extent practicable when
3 considering all public interests and the studies mandated by
4 Section 16.058 as evaluated under Section 11.1491[~~those~~
5 ~~conditions considered necessary to maintain beneficial inflows to~~
6 ~~any affected bay and estuary system~~].

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

- 15 (1) the studies mandated by Section 16.059; and
16 (2) any water quality assessment performed under
17 Section 11.150.

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

24 (e-1) Any permit for a new appropriation of water or an
25 amendment to an existing water right that increases the amount of
26 water authorized to be stored, taken, or diverted must include a
27 provision allowing the commission to adjust the conditions included

1 in the permit or amended water right to provide for protection of
2 instream flows or freshwater inflows. With respect to an amended
3 water right, the provision may not allow the commission to adjust a
4 condition of the amendment other than a condition that applies only
5 to the increase in the amount of water to be stored, taken, or
6 diverted authorized by the amendment. This subsection does not
7 affect an appropriation of or an authorization to store, take, or
8 divert water under a permit or amendment to a water right issued
9 before September 1, 2007. The commission shall adjust the
10 conditions if the commission determines, through an expedited
11 public comment process, that such an adjustment is appropriate to
12 achieve compliance with applicable environmental flow standards
13 adopted under Section 11.1471. The adjustment:

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

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

27 (3) must be based on appropriate consideration of any

1 voluntary contributions to the Texas Water Trust that contribute
2 toward meeting the environmental flow standards.

3 (e-2) Any water right holder who makes a contribution
4 described by Subsection (e-1)(3) is entitled to appropriate credit
5 for the benefits of the contribution against the adjustment of the
6 holder's water right under Subsection (e-1).

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

15 SECTION 14. Subchapter D, Chapter 11, Water Code, is
16 amended by adding Section 11.1471 to read as follows:

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

18 (a) The commission by rule shall:

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

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

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

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

7 (1) the definition of the geographical extent of the
8 river basin and bay system adopted by the advisory group under
9 Section 11.02362(a) and the definition and designation of the river
10 basin by the board under Section 16.051(c);

11 (2) the schedule established by the advisory group
12 under Section 11.02362(d) or (e) for the adoption of environmental
13 flow standards for the river basin and bay system, if applicable;

14 (3) the environmental flow analyses and the
15 recommended environmental flow regime developed by the applicable
16 basin and bay expert science team under Section 11.02362(m);

17 (4) the recommendations developed by the applicable
18 basin and bay area stakeholders committee under Section 11.02362(o)
19 regarding environmental flow standards and strategies to meet the
20 flow standards;

21 (5) any comments submitted by the advisory group to
22 the commission under Section 11.02362(q);

23 (6) the specific characteristics of the river basin
24 and bay system;

25 (7) economic factors;

26 (8) the human and other competing water needs in the
27 river basin and bay system;

1 (9) all reasonably available scientific information,
2 including any scientific information provided by the science
3 advisory committee; and

4 (10) any other appropriate information.

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

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

20 (e) An environmental flow set-aside established under
21 Subsection (a)(2) for a river basin and bay system other than the
22 middle and lower Rio Grande must be assigned a priority date
23 corresponding to the date the commission receives environmental
24 flow regime recommendations from the applicable basin and bay
25 expert science team and be included in the appropriate water
26 availability models in connection with an application for a permit
27 for a new appropriation or for an amendment to an existing water

1 right that increases the amount of water authorized to be stored,
2 taken, or diverted.

3 (f) An environmental flow standard or environmental flow
4 set-aside adopted under Subsection (a) may be altered by the
5 commission in a rulemaking process undertaken in accordance with a
6 schedule established by the commission. In establishing a
7 schedule, the commission shall consider the applicable work plan
8 approved by the advisory group under Section 11.02362(p). The
9 commission's schedule may not provide for the rulemaking process to
10 occur more frequently than once every 10 years unless the work plan
11 provides for a periodic review under Section 11.02362(p) to occur
12 more frequently than once every 10 years. In that event, the
13 commission may provide for the rulemaking process to be undertaken
14 in conjunction with the periodic review if the commission
15 determines that schedule to be appropriate. A rulemaking process
16 undertaken under this subsection must provide for the participation
17 of stakeholders having interests in the particular river basin and
18 bay system for which the process is undertaken.

19 SECTION 15. The heading to Section 11.148, Water Code, is
20 amended to read as follows:

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

24 SECTION 16. Section 11.148, Water Code, is amended by
25 adding Subsection (a-1) and amending Subsections (b) and (c) to
26 read as follows:

27 (a-1) State water that is set aside by the commission to

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

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

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

23 SECTION 17. Section 11.1491(a), Water Code, is amended to
24 read as follows:

25 (a) The Parks and Wildlife Department and the commission
26 shall have joint responsibility to review the studies prepared
27 under Section 16.058 [of this code], to determine inflow conditions

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

14 SECTION 18. Section 11.329(g), Water Code, is amended to
15 read as follows:

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

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

5 SECTION 19. Section 11.404(e), Water Code, is amended to
6 read as follows:

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

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

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

14 SECTION 20. Subchapter I, Chapter 11, Water Code, is
15 amended by adding Section 11.4531 to read as follows:

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

26 (1) geographic representation;

27 (2) amount of water rights held;

1 (3) different types of holders of water rights and
2 users, including water districts, municipal suppliers, irrigators,
3 and industrial users; and

4 (4) experience and knowledge of water management
5 practices.

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

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

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

15 (e) The advisory committee shall:

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

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

23 (3) perform other advisory duties as requested by the
24 executive director regarding the watermaster operation or as
25 requested by holders of water rights and considered by the
26 committee to benefit the administration of water rights in the
27 river basin or segment of the river basin for which the watermaster

1 is appointed.

2 SECTION 21. Sections 11.454 and 11.455, Water Code, are
3 amended to read as follows:

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

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

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

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

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

23 Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER

24 [~~ASSESSMENTS~~]. (a) Section 11.329 applies to the payment of the
25 compensation and expenses of a watermaster appointed for a river
26 basin or segment of a river basin under this subchapter in the same
27 manner as that section applies to the payment of the compensation

1 and expenses of a watermaster appointed for a water division under
2 Subchapter G.

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

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

13 SECTION 22. Subchapter F, Chapter 15, Water Code, is
14 amended by adding Section 15.4063 to read as follows:

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

17 (1) to compensate the members of the Texas
18 environmental flows science advisory committee established under
19 Section 11.02361 for attendance and participation at meetings of
20 the committee and for transportation, meals, lodging, or other
21 travel expenses associated with attendance at those meetings as
22 provided by the General Appropriations Act;

23 (2) for contracts with cooperating state and federal
24 agencies and universities and with private entities as necessary to
25 provide technical assistance to enable the Texas environmental
26 flows science advisory committee and the basin and bay expert
27 science teams established under Section 11.02362 to perform their

1 statutory duties;

2 (3) to compensate the members of the basin and bay
3 expert science teams established under Section 11.02362 for
4 attendance and participation at meetings of the basin and bay
5 expert science teams and for transportation, meals, lodging, or
6 other travel expenses associated with attendance at those meetings
7 as provided by the General Appropriations Act; and

8 (4) for contracts with political subdivisions
9 designated as representatives of basin and bay area stakeholders
10 committees established under Section 11.02362 to fund all or part
11 of the administrative expenses incurred in conducting meetings of
12 the basin and bay area stakeholders committees or the pertinent
13 basin and bay expert science teams.

14 SECTION 23. Section 15.7031, Water Code, is amended by
15 amending Subsection (c) and adding Subsection (e) to read as
16 follows:

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

27 (e) While a water right is held in the trust, the water

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

8 SECTION 24. Section 16.059(d), Water Code, is amended to
9 read as follows:

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

19 SECTION 25. Section 26.0135(h), Water Code, as amended by
20 Chapters 234 and 965, Acts of the 77th Legislature, Regular
21 Session, 2001, is reenacted and amended to read as follows:

22 (h) The commission shall apportion, assess, and recover the
23 reasonable costs of administering the water quality management
24 programs under this section from users of water and wastewater
25 permit holders in the watershed according to the records of the
26 commission generally in proportion to their right, through permit
27 or contract, to use water from and discharge wastewater in the

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

1 shall file a written report accounting for the costs recovered
2 under this section with the governor, the lieutenant governor, and
3 the speaker of the house of representatives on or before December 1
4 of each even-numbered year.

5 SECTION 26. Section 11.1491(b), Water Code, is repealed.

6 SECTION 27. (a) The governor, lieutenant governor, and
7 speaker of the house of representatives shall appoint the initial
8 members of the environmental flows advisory group as provided by
9 Section 11.0236, Water Code, as added by this Act, as soon as
10 practicable on or after the effective date of this Act.

11 (b) As soon as practicable after taking office, the initial
12 members of the environmental flows advisory group shall appoint the
13 initial members of the Texas environmental flows science advisory
14 committee as provided by Section 11.02361, Water Code, as added by
15 this Act. The terms of the initial members of the committee expire
16 March 1, 2012.

17 (c) The environmental flows advisory group shall appoint
18 the members of each basin and bay area stakeholders committee as
19 provided by Section 11.02362, Water Code, as added by this Act. The
20 terms of the initial members of each committee expire March 1 of the
21 fifth year that begins after the year in which the initial
22 appointments are made.

23 (d) Each basin and bay area stakeholders committee shall
24 appoint the members of the basin and bay expert science team for the
25 river basin and bay system for which the committee is established as
26 provided by Section 11.02362, Water Code, as added by this Act. The
27 terms of the initial members of each team expire April 1 of the

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

3 (e) The executive director of the Texas Commission on
4 Environmental Quality shall appoint the members of the watermaster
5 advisory committee under Section 11.4531, Water Code, as added by
6 this Act, for each river basin or segment of a river basin for which
7 the executive director appoints a watermaster under Subchapter I,
8 Chapter 11, Water Code. The terms of the initial members of each
9 committee expire August 31 of the first odd-numbered year that
10 begins after the year in which the initial appointments are made.

11 SECTION 28. The changes in law made by this Act relating to
12 a permit for a new appropriation of water or to an amendment to an
13 existing water right that increases the amount of water authorized
14 to be stored, taken, or diverted apply only to:

15 (1) water appropriated under a permit for a new
16 appropriation of water the application for which is pending with
17 the Texas Commission on Environmental Quality on the effective date
18 of this Act or is filed with the commission on or after that date; or

19 (2) the increase in the amount of water authorized to
20 be stored, taken, or diverted under an amendment to an existing
21 water right that increases the amount of water authorized to be
22 stored, taken, or diverted and the application for which is pending
23 with the Texas Commission on Environmental Quality on the effective
24 date of this Act or is filed with the commission on or after that
25 date.

26 SECTION 29. This Act takes effect September 1, 2007.