

1-1 By: Puentes, Hilderbran (Senate Sponsor - Averitt) H.B. No. 3
1-2 (In the Senate - Received from the House March 5, 2007;
1-3 March 12, 2007, read first time and referred to Committee on
1-4 Natural Resources; April 30, 2007, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 11,
1-6 Nays 0; April 30, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3 By: Averitt

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the management of the water resources of the state,
1-11 including the protection of instream flows and freshwater inflows.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The heading to Section 5.506, Water Code, is
1-14 amended to read as follows:

1-15 Sec. 5.506. EMERGENCY SUSPENSION OF PERMIT CONDITION
1-16 RELATING TO, AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET
1-17 ASIDE FOR, BENEFICIAL INFLOWS TO AFFECTED BAYS AND ESTUARIES AND
1-18 INSTREAM USES.

1-19 SECTION 2. Section 5.506, Water Code, is amended by adding
1-20 Subsection (a-1) and amending Subsections (b) and (c) to read as
1-21 follows:

1-22 (a-1) State water that is set aside by the commission to
1-23 meet the needs for freshwater inflows to affected bays and
1-24 estuaries and instream uses under Section 11.1471(a)(2) may be made
1-25 available temporarily for other essential beneficial uses if the
1-26 commission finds that an emergency exists that cannot practically
1-27 be resolved in another way.

1-28 (b) The commission must give written notice of the proposed
1-29 action [suspension] to the Parks and Wildlife Department before the
1-30 commission suspends a permit condition under Subsection (a) or
1-31 makes water available temporarily under Subsection (a-1) [this
1-32 section]. The commission shall give the Parks and Wildlife
1-33 Department an opportunity to submit comments on the proposed action
1-34 [suspension] for a period of 72 hours from receipt of the notice and
1-35 must consider those comments before issuing an order implementing
1-36 the proposed action [imposing the suspension].

1-37 (c) The commission may suspend a permit condition under
1-38 Subsection (a) or make water available temporarily under Subsection
1-39 (a-1) [this section] without notice except as required by
1-40 Subsection (b).

1-41 SECTION 3. Section 5.701(j), Water Code, is amended to read
1-42 as follows:

1-43 (j) The fee for other uses of water not specifically named
1-44 in this section is \$1 per acre-foot, except that no political
1-45 subdivision may be required to pay fees to use water for recharge of
1-46 underground freshwater-bearing sands and aquifers or for abatement
1-47 of natural pollution. A fee is not required for a water right that
1-48 is [This fee is waived for applications for instream-use water
1-49 rights] deposited into the Texas Water Trust.

1-50 SECTION 4. Section 11.002, Water Code, is amended by adding
1-51 Subdivisions (15), (16), (17), (18), and (19) to read as follows:

1-52 (15) "Environmental flow analysis" means the
1-53 application of a scientifically derived process for predicting the
1-54 response of an ecosystem to changes in instream flows or freshwater
1-55 inflows.

1-56 (16) "Environmental flow regime" means a schedule of
1-57 flow quantities that reflects seasonal and yearly fluctuations that
1-58 typically would vary geographically, by specific location in a
1-59 watershed, and that are shown to be adequate to support a sound
1-60 ecological environment and to maintain the productivity, extent,
1-61 and persistence of key aquatic habitats in and along the affected
1-62 water bodies.

1-63 (17) "Environmental flow standards" means those

2-1 requirements adopted by the commission under Section 11.1471.

2-2 (18) "Advisory group" means the environmental flows
2-3 advisory group.

2-4 (19) "Science advisory committee" means the Texas
2-5 environmental flows science advisory committee.

2-6 SECTION 5. Section 11.023(a), Water Code, is amended to
2-7 read as follows:

2-8 (a) To the extent that state water has not been set aside by
2-9 the commission under Section 11.1471(a)(2) to meet downstream
2-10 instream flow needs or freshwater inflow needs, state [State] water
2-11 may be appropriated, stored, or diverted for:

2-12 (1) domestic and municipal uses, including water for
2-13 sustaining human life and the life of domestic animals;

2-14 (2) agricultural uses and industrial uses, meaning
2-15 processes designed to convert materials of a lower order of value
2-16 into forms having greater usability and commercial value, including
2-17 the development of power by means other than hydroelectric;

2-18 (3) mining and recovery of minerals;

2-19 (4) hydroelectric power;

2-20 (5) navigation;

2-21 (6) recreation and pleasure;

2-22 (7) public parks; and

2-23 (8) game preserves.

2-24 SECTION 6. Section 11.0235, Water Code, is amended by
2-25 amending Subsections (c) and (e) and adding Subsections (d-1)
2-26 through (d-6) and (f) to read as follows:

2-27 (c) The legislature has expressly required the commission
2-28 while balancing all other public interests to consider and, to the
2-29 extent practicable, provide for the freshwater inflows and instream
2-30 flows necessary to maintain the viability of the state's streams,
2-31 rivers, and bay and estuary systems in the commission's regular
2-32 granting of permits for the use of state waters. As an essential
2-33 part of the state's environmental flows policy, all permit
2-34 conditions relating to freshwater inflows to affected bays and
2-35 estuaries and instream flow needs must be subject to temporary
2-36 suspension if necessary for water to be applied to essential
2-37 beneficial uses during emergencies.

2-38 (d-1) The legislature has determined that existing water
2-39 rights that are converted to water rights for environmental
2-40 purposes should be enforced in a manner consistent with the
2-41 enforcement of water rights for other purposes as provided by the
2-42 laws of this state governing the appropriation of state water.

2-43 (d-2) The legislature finds that to provide certainty in
2-44 water management and development and to provide adequate protection
2-45 of the state's streams, rivers, and bays and estuaries, the state
2-46 must have a process with specific timelines for prompt action to
2-47 address environmental flow issues in the state's major basin and
2-48 bay systems, especially those systems in which unappropriated water
2-49 is still available.

2-50 (d-3) The legislature finds that:

2-51 (1) in those basins in which water is available for
2-52 appropriation, the commission should establish an environmental
2-53 set-aside below which water should not be available for
2-54 appropriation; and

2-55 (2) in those basins in which the unappropriated water
2-56 that will be set aside for instream flow and freshwater inflow
2-57 protection is not sufficient to fully satisfy the environmental
2-58 flow standards established by the commission, a variety of market
2-59 approaches, both public and private, for filling the gap must be
2-60 explored and pursued.

2-61 (d-4) The legislature finds that while the state has
2-62 pioneered tools to address freshwater inflow needs for bays and
2-63 estuaries, there are limitations to those tools in light of both
2-64 scientific and public policy evolution. To fully address bay and
2-65 estuary environmental flow issues, the foundation of work
2-66 accomplished by the state should be improved. While the state's
2-67 instream flow studies program appears to encompass a comprehensive
2-68 and scientific approach for establishing a process to assess
2-69 instream flow needs for rivers and streams across the state, more

3-1 extensive review and examination of the details of the program,
 3-2 which may not be fully developed until the program is under way, are
 3-3 needed to ensure an effective tool for evaluating riverine
 3-4 environmental flow conditions.

3-5 (d-5) The legislature finds that the management of water to
 3-6 meet instream flow and freshwater inflow needs should be evaluated
 3-7 on a regular basis and adapted to reflect both improvements in
 3-8 science related to environmental flows and future changes in
 3-9 projected human needs for water. In addition, the development of
 3-10 management strategies for addressing environmental flow needs
 3-11 should be an ongoing, adaptive process that considers and addresses
 3-12 local issues.

3-13 (d-6) The legislature finds that recommendations for state
 3-14 action to protect instream flows and freshwater inflows should be
 3-15 developed through a consensus-based, regional approach involving
 3-16 balanced representation of stakeholders and that such a process
 3-17 should be encouraged throughout the state.

3-18 (e) The fact that greater pressures and demands are being
 3-19 placed on the water resources of the state makes it of paramount
 3-20 importance to ensure ~~[reexamine the process for ensuring]~~ that
 3-21 these important priorities are effectively addressed by detailing
 3-22 how environmental flow standards are to be developed using the
 3-23 environmental studies that have been and are to be performed by the
 3-24 state and others and specifying in clear delegations of authority
 3-25 how those environmental flow standards will be integrated into the
 3-26 regional water planning and water permitting process ~~[to the~~
 3-27 ~~commission]~~.

3-28 (f) The legislature recognizes that effective
 3-29 implementation of the approach provided by this chapter for
 3-30 protecting instream flows and freshwater inflows will require more
 3-31 effective water rights administration and enforcement systems than
 3-32 are currently available in most areas of the state.

3-33 SECTION 7. Subchapter B, Chapter 11, Water Code, is amended
 3-34 by adding Sections 11.0236, 11.02361, 11.02362, and 11.0237 to read
 3-35 as follows:

3-36 Sec. 11.0236. ENVIRONMENTAL FLOWS ADVISORY GROUP. (a) In
 3-37 recognition of the importance that the ecological soundness of our
 3-38 riverine, bay, and estuary systems and riparian lands has on the
 3-39 economy, health, and well-being of the state there is created the
 3-40 environmental flows advisory group.

3-41 (b) The advisory group is composed of nine members as
 3-42 follows:

- 3-43 (1) three members appointed by the governor;
- 3-44 (2) three members of the senate appointed by the
 3-45 lieutenant governor; and
- 3-46 (3) three members of the house of representatives
 3-47 appointed by the speaker of the house of representatives.

3-48 (c) Of the members appointed under Subsection (b)(1):

- 3-49 (1) one member must be a member of the commission;
- 3-50 (2) one member must be a member of the board; and
- 3-51 (3) one member must be a member of the Parks and
 3-52 Wildlife Commission.

3-53 (d) Each member of the advisory group serves at the will of
 3-54 the person who appointed the member.

3-55 (e) The appointed senator with the most seniority and the
 3-56 appointed house member with the most seniority serve together as
 3-57 co-presiding officers of the advisory group.

3-58 (f) A member of the advisory group is not entitled to
 3-59 receive compensation for service on the advisory group but is
 3-60 entitled to reimbursement of the travel expenses incurred by the
 3-61 member while conducting the business of the advisory group, as
 3-62 provided by the General Appropriations Act.

3-63 (g) The advisory group may accept gifts and grants from any
 3-64 source to be used to carry out a function of the advisory group.

3-65 (h) The commission shall provide staff support for the
 3-66 advisory group.

3-67 (i) The advisory group shall conduct public hearings and
 3-68 study public policy implications for balancing the demands on the
 3-69 water resources of the state resulting from a growing population

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

4-14 (1) ways that the ecological soundness of those
 4-15 systems will be ensured in the water rights administration and
 4-16 enforcement and water allocation processes; and

4-17 (2) appropriate methods to encourage persons
 4-18 voluntarily to convert reasonable amounts of existing water rights
 4-19 to use for environmental flow protection temporarily or
 4-20 permanently.

4-21 (j) The advisory group may adopt rules, procedures, and
 4-22 policies as needed to administer this section, to implement its
 4-23 responsibilities, and to exercise its authority under Sections
 4-24 11.02361 and 11.02362.

4-25 (k) Chapter 2110, Government Code, does not apply to the
 4-26 size, composition, or duration of the advisory group.

4-27 (l) Not later than December 1, 2008, and every two years
 4-28 thereafter, the advisory group shall issue and promptly deliver to
 4-29 the governor, lieutenant governor, and speaker of the house of
 4-30 representatives copies of a report summarizing:

4-31 (1) any hearings conducted by the advisory group;
 4-32 (2) any studies conducted by the advisory group;
 4-33 (3) any legislation proposed by the advisory group;
 4-34 (4) progress made in implementing Sections 11.02361
 4-35 and 11.02362; and

4-36 (5) any other findings and recommendations of the
 4-37 advisory group.

4-38 (m) The advisory group is abolished on the date that the
 4-39 commission has adopted environmental flow standards under Section
 4-40 11.1471 for all of the river basin and bay systems in this state.

4-41 Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE ADVISORY
 4-42 COMMITTEE. (a) The Texas environmental flows science advisory
 4-43 committee consists of at least five but not more than nine members
 4-44 appointed by the advisory group.

4-45 (b) The advisory group shall appoint to the science advisory
 4-46 committee persons who will provide an objective perspective and
 4-47 diverse technical expertise, including expertise in hydrology,
 4-48 hydraulics, water resources, aquatic and terrestrial biology,
 4-49 geomorphology, geology, water quality, computer modeling, and
 4-50 other technical areas pertinent to the evaluation of environmental
 4-51 flows.

4-52 (c) Members of the science advisory committee serve
 4-53 five-year terms expiring March 1. A vacancy on the science advisory
 4-54 committee is filled by appointment by the co-presiding officers of
 4-55 the advisory group for the unexpired term.

4-56 (d) Chapter 2110, Government Code, does not apply to the
 4-57 size, composition, or duration of the science advisory committee.

4-58 (e) The science advisory committee shall:

4-59 (1) serve as an objective scientific body to advise
 4-60 and make recommendations to the advisory group on issues relating
 4-61 to the science of environmental flow protection; and

4-62 (2) develop recommendations to help provide overall
 4-63 direction, coordination, and consistency relating to:

4-64 (A) environmental flow methodologies for bay and
 4-65 estuary studies and instream flow studies;

4-66 (B) environmental flow programs at the
 4-67 commission, the Parks and Wildlife Department, and the board; and

4-68 (C) the work of the basin and bay expert science
 4-69 teams described in Section 11.02362.

5-1 (f) To assist the advisory group to assess the extent to
 5-2 which the recommendations of the science advisory committee are
 5-3 considered and implemented, the commission, the Parks and Wildlife
 5-4 Department, and the board shall provide written reports to the
 5-5 advisory group, at intervals determined by the advisory group, that
 5-6 describe:

5-7 (1) the actions taken by each agency in response to
 5-8 each recommendation; and

5-9 (2) for each recommendation not implemented, the
 5-10 reason it was not implemented.

5-11 (g) The science advisory committee is abolished on the date
 5-12 the advisory group is abolished under Section 11.0236(m).

5-13 Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME
 5-14 RECOMMENDATIONS. (a) For the purposes of this section, the
 5-15 advisory group, not later than November 1, 2007, shall define the
 5-16 geographical extent of each river basin and bay system in this state
 5-17 for the sole purpose of developing environmental flow regime
 5-18 recommendations under this section and adoption of environmental
 5-19 flow standards under Section 11.1471.

5-20 (b) The advisory group shall give priority in descending
 5-21 order to the following river basin and bay systems of the state for
 5-22 the purpose of developing environmental flow regime
 5-23 recommendations and adopting environmental flow standards:

5-24 (1) the river basin and bay system consisting of the
 5-25 Trinity and San Jacinto Rivers and Galveston Bay and the river basin
 5-26 and bay system consisting of the Sabine and Neches Rivers and Sabine
 5-27 Lake Bay;

5-28 (2) the river basin and bay system consisting of the
 5-29 Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the
 5-30 river basin and bay system consisting of the Guadalupe, San
 5-31 Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas,
 5-32 and San Antonio Bays; and

5-33 (3) the river basin and bay system consisting of the
 5-34 Nueces River and Corpus Christi and Baffin Bays, the river basin and
 5-35 bay system consisting of the Rio Grande, the Rio Grande estuary, and
 5-36 the Lower Laguna Madre, and the Brazos River and its associated bay
 5-37 and estuary system.

5-38 (c) For the river basin and bay systems listed in Subsection
 5-39 (b)(1):

5-40 (1) the advisory group shall appoint the basin and bay
 5-41 area stakeholders committee not later than November 1, 2007;

5-42 (2) the basin and bay area stakeholders committee
 5-43 shall establish a basin and bay expert science team not later than
 5-44 March 1, 2008;

5-45 (3) the basin and bay expert science team shall
 5-46 finalize environmental flow regime recommendations and submit them
 5-47 to the basin and bay area stakeholders committee, the advisory
 5-48 group, and the commission not later than March 1, 2009, except that
 5-49 at the request of the basin and bay area stakeholders committee for
 5-50 good cause shown, the advisory group may extend the deadline
 5-51 provided by this subdivision;

5-52 (4) the basin and bay area stakeholders committee
 5-53 shall submit to the commission its comments on and recommendations
 5-54 regarding the basin and bay expert science team's recommended
 5-55 environmental flow regime not later than September 1, 2009; and

5-56 (5) the commission shall adopt the environmental flow
 5-57 standards as provided by Section 11.1471 not later than September
 5-58 1, 2010.

5-59 (d) The advisory group shall appoint the basin and bay area
 5-60 stakeholders committees for the river basin and bay systems listed
 5-61 in Subsection (b)(2) not later than September 1, 2008, and shall
 5-62 appoint the basin and bay area stakeholders committees for the
 5-63 river basin and bay systems listed in Subsection (b)(3) not later
 5-64 than September 1, 2009. The advisory group shall establish a
 5-65 schedule for the performance of the tasks listed in Subsections
 5-66 (c)(2) through (5) with regard to the river basin and bay systems
 5-67 listed in Subsections (b)(2) and (3) that will result in the
 5-68 adoption of environmental flow standards for that river basin and
 5-69 bay system by the commission as soon as is reasonably possible.

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

6-11 (e) For a river basin and bay system or a river basin that
 6-12 does not have an associated bay system in this state not listed in
 6-13 Subsection (b), the advisory group shall establish a schedule for
 6-14 the development of environmental flow regime recommendations and
 6-15 the adoption of environmental flow standards. The advisory group
 6-16 shall develop the schedule in consultation with the commission, the
 6-17 Parks and Wildlife Department, the board, and the pertinent basin
 6-18 and bay area stakeholders committee and basin and bay expert
 6-19 science team. The advisory group may, on its own initiative or on
 6-20 request, modify a schedule established under this subsection to be
 6-21 more responsive to particular circumstances, local desires,
 6-22 changing conditions, or time-sensitive conflicts. This subsection
 6-23 does not prohibit, in a river basin and bay system for which the
 6-24 advisory group has not yet established a schedule for the
 6-25 development of environmental flow regime recommendations and the
 6-26 adoption of environmental flow standards, an effort to develop
 6-27 information on environmental flow needs and ways in which those
 6-28 needs can be met by a voluntary consensus-building process.

6-29 (f) The advisory group shall appoint a basin and bay area
 6-30 stakeholders committee for each river basin and bay system in this
 6-31 state for which a schedule for the development of environmental
 6-32 flow regime recommendations and the adoption of environmental flow
 6-33 standards is specified by or established under Subsection (c), (d),
 6-34 or (e). Chapter 2110, Government Code, does not apply to the size,
 6-35 composition, or duration of a basin and bay area stakeholders
 6-36 committee. Each committee must consist of at least 17 members. The
 6-37 membership of each committee must:

6-38 (1) reflect a fair and equitable balance of interest
 6-39 groups concerned with the particular river basin and bay system for
 6-40 which the committee is established; and

6-41 (2) be representative of appropriate stakeholders,
 6-42 including the following if they have a presence in the particular
 6-43 river basin and bay system for which the committee is established:

6-44 (A) agricultural water users, including
 6-45 representatives of each of the following sectors:

6-46 (i) agricultural irrigation;
 6-47 (ii) free-range livestock; and
 6-48 (iii) concentrated animal feeding
 6-49 operation;

6-50 (B) recreational water users, including coastal
 6-51 recreational anglers and businesses supporting water recreation;

6-52 (C) municipalities;

6-53 (D) soil and water conservation districts;

6-54 (E) industrial water users, including
 6-55 representatives of each of the following sectors:

6-56 (i) refining;
 6-57 (ii) chemical manufacturing;
 6-58 (iii) electricity generation; and
 6-59 (iv) production of paper products or
 6-60 timber;

6-61 (F) commercial fishermen;

6-62 (G) public interest groups;

6-63 (H) regional water planning groups;

6-64 (I) groundwater conservation districts;

6-65 (J) river authorities and other conservation and
 6-66 reclamation districts with jurisdiction over surface water; and

6-67 (K) environmental interests.

6-68 (g) Members of a basin and bay area stakeholders committee
 6-69 serve five-year terms expiring March 1. If a vacancy occurs on a

7-1 committee, the remaining members of the committee by majority vote
7-2 shall appoint a member to serve the remainder of the unexpired term.

7-3 (h) Meetings of a basin and bay area stakeholders committee
7-4 must be open to the public.

7-5 (i) Each basin and bay area stakeholders committee shall
7-6 establish a basin and bay expert science team for the river basin
7-7 and bay system for which the committee is established. The basin
7-8 and bay expert science team must be established not later than six
7-9 months after the date the basin and bay area stakeholders committee
7-10 is established. Chapter 2110, Government Code, does not apply to
7-11 the size, composition, or duration of a basin and bay expert science
7-12 team. Each basin and bay expert science team must be composed of
7-13 technical experts with special expertise regarding the river basin
7-14 and bay system or regarding the development of environmental flow
7-15 regimes. A person may serve as a member of more than one basin and
7-16 bay expert science team at the same time.

7-17 (j) The members of a basin and bay expert science team serve
7-18 five-year terms expiring April 1. A vacancy on a basin and bay
7-19 expert science team is filled by appointment by the pertinent basin
7-20 and bay area stakeholders committee to serve the remainder of the
7-21 unexpired term.

7-22 (k) The science advisory committee shall appoint one of its
7-23 members to serve as a liaison to each basin and bay expert science
7-24 team to facilitate coordination and consistency in environmental
7-25 flow activities throughout the state. The commission, the Parks
7-26 and Wildlife Department, and the board shall provide technical
7-27 assistance to each basin and bay expert science team, including
7-28 information about the studies conducted under Sections 16.058 and
7-29 16.059, and may serve as nonvoting members of the basin and bay
7-30 expert science team to facilitate the development of environmental
7-31 flow regime recommendations.

7-32 (l) Where reasonably practicable, meetings of a basin and
7-33 bay expert science team must be open to the public.

7-34 (m) Each basin and bay expert science team shall develop
7-35 environmental flow analyses and a recommended environmental flow
7-36 regime for the river basin and bay system for which the team is
7-37 established through a collaborative process designed to achieve a
7-38 consensus. In developing the analyses and recommendations, the
7-39 science team must consider all reasonably available science,
7-40 without regard to the need for the water for other uses, and the
7-41 science team's recommendations must be based solely on the best
7-42 science available. For the Rio Grande below Fort Quitman, any uses
7-43 attributable to Mexican water flows must be excluded from
7-44 environmental flow regime recommendations.

7-45 (n) Each basin and bay expert science team shall submit its
7-46 environmental flow analyses and environmental flow regime
7-47 recommendations to the pertinent basin and bay area stakeholders
7-48 committee, the advisory group, and the commission in accordance
7-49 with the applicable schedule specified by or established under
7-50 Subsection (c), (d), or (e). The basin and bay area stakeholders
7-51 committee and the advisory group may not change the environmental
7-52 flow analyses or environmental flow regime recommendations of the
7-53 basin and bay expert science team.

7-54 (o) Each basin and bay area stakeholders committee shall
7-55 review the environmental flow analyses and environmental flow
7-56 regime recommendations submitted by the committee's basin and bay
7-57 expert science team and shall consider them in conjunction with
7-58 other factors, including the present and future needs for water for
7-59 other uses related to water supply planning in the pertinent river
7-60 basin and bay system. For the Rio Grande, the basin and bay area
7-61 stakeholders committee shall also consider the water accounting
7-62 requirements for any international water sharing treaty, minutes,
7-63 and agreement applicable to the Rio Grande and the effects on
7-64 allocation of water by the Rio Grande watermaster in the middle and
7-65 lower Rio Grande. The Rio Grande basin and bay expert science team
7-66 may not recommend any environmental flow regime that would result
7-67 in a violation of a treaty or court decision. The basin and bay area
7-68 stakeholders committee shall develop recommendations regarding
7-69 environmental flow standards and strategies to meet the

8-1 environmental flow standards and submit those recommendations to
 8-2 the commission and to the advisory group in accordance with the
 8-3 applicable schedule specified by or established under Subsection
 8-4 (c), (d), or (e). In developing its recommendations, the basin and
 8-5 bay area stakeholders committee shall operate on a consensus basis
 8-6 to the maximum extent possible.

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

8-14 (1) establish a periodic review of the basin and bay
 8-15 environmental flow analyses and environmental flow regime
 8-16 recommendations, environmental flow standards, and strategies, to
 8-17 occur at least once every 10 years;

8-18 (2) prescribe specific monitoring, studies, and
 8-19 activities; and

8-20 (3) establish a schedule for continuing the validation
 8-21 or refinement of the basin and bay environmental flow analyses and
 8-22 environmental flow regime recommendations, the environmental flow
 8-23 standards adopted by the commission, and the strategies to achieve
 8-24 those standards.

8-25 (q) In accordance with the applicable schedule specified by
 8-26 or established under Subsection (c), (d), or (e), the advisory
 8-27 group, with input from the science advisory committee, shall review
 8-28 the environmental flow analyses and environmental flow regime
 8-29 recommendations submitted by each basin and bay expert science
 8-30 team. If appropriate, the advisory group shall submit comments on
 8-31 the analyses and recommendations to the commission for use by the
 8-32 commission in adopting rules under Section 11.1471. Comments must
 8-33 be submitted not later than six months after the date of receipt of
 8-34 the analyses and recommendations.

8-35 (r) Notwithstanding the other provisions of this section,
 8-36 in the event the commission, by permit or order, has established an
 8-37 estuary advisory council with specific duties related to
 8-38 implementation of permit conditions for environmental flows, that
 8-39 council may continue in full force and effect and shall act as and
 8-40 perform the duties of the basin and bay area stakeholders committee
 8-41 under this section. The estuary advisory council shall add members
 8-42 from stakeholder groups and from appropriate science and technical
 8-43 groups, if necessary, to fully meet the criteria for membership
 8-44 established in Subsection (f) and shall operate under the
 8-45 provisions of this section.

8-46 (s) Each basin and bay area stakeholders committee and basin
 8-47 and bay expert science team is abolished on the date the advisory
 8-48 group is abolished under Section 11.0236(m).

8-49 Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO
 8-50 ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The commission
 8-51 may not issue a new permit for instream flows dedicated to
 8-52 environmental needs or bay and estuary inflows. The commission may
 8-53 approve an application to amend an existing permit or certificate
 8-54 of adjudication to change the use to or add a use for instream flows
 8-55 dedicated to environmental needs or bay and estuary inflows.

8-56 (b) This section does not alter the commission's
 8-57 obligations under Section 11.042(b) or (c), 11.046(b),
 8-58 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491,
 8-59 11.150, 11.152, 16.058, or 16.059.

8-60 SECTION 8. Section 11.082(b), Water Code, is amended to
 8-61 read as follows:

8-62 (b) The state may recover the penalties prescribed in
 8-63 Subsection (a) [~~of this section~~] by suit brought for that purpose in
 8-64 a court of competent jurisdiction. The state may seek those
 8-65 penalties regardless of whether a watermaster has been appointed
 8-66 for the water division, river basin, or segment of a river basin
 8-67 where the unlawful use is alleged to have occurred.

8-68 SECTION 9. Section 11.0841, Water Code, is amended by
 8-69 adding Subsection (c) to read as follows:

9-1 (c) For purposes of this section, the Parks and Wildlife
 9-2 Department has:

9-3 (1) the rights of a holder of a water right that is
 9-4 held in the Texas Water Trust, including the right to file suit in a
 9-5 civil court to prevent the unlawful use of such a right;

9-6 (2) the right to act in the same manner that a holder
 9-7 of a water right may act to protect the holder's rights in seeking
 9-8 to prevent any person from appropriating water in violation of a
 9-9 set-aside established by the commission under Section 11.1471 to
 9-10 meet instream flow needs or freshwater inflow needs; and

9-11 (3) the right to file suit in a civil court to prevent
 9-12 the unlawful use of a set-aside established under Section 11.1471.

9-13 SECTION 10. Section 11.0842(a), Water Code, is amended to
 9-14 read as follows:

9-15 (a) If a person violates this chapter, a rule or order
 9-16 adopted under this chapter or Section 16.236 [~~of this code~~], or a
 9-17 permit, certified filing, or certificate of adjudication issued
 9-18 under this chapter, the commission may assess an administrative
 9-19 penalty against that person as provided by this section. The
 9-20 commission may assess an administrative penalty for a violation
 9-21 relating to a water division or a river basin or segment of a river
 9-22 basin regardless of whether a watermaster has been appointed for
 9-23 the water division or river basin or segment of the river basin.

9-24 SECTION 11. Section 11.0843(a), Water Code, is amended to
 9-25 read as follows:

9-26 (a) Upon witnessing a violation of this chapter or a rule or
 9-27 order or a water right issued under this chapter, the executive
 9-28 director or a person designated by the executive director,
 9-29 including a watermaster or the watermaster's deputy, [~~as defined by~~
 9-30 ~~commission rule,~~] may issue the alleged violator a field citation
 9-31 alleging that a violation has occurred and providing the alleged
 9-32 violator the option of either:

9-33 (1) without admitting to or denying the alleged
 9-34 violation, paying an administrative penalty in accordance with the
 9-35 predetermined penalty amount established under Subsection (b) [~~of~~
 9-36 ~~this section~~] and taking remedial action as provided in the
 9-37 citation; or

9-38 (2) requesting a hearing on the alleged violation in
 9-39 accordance with Section 11.0842 [~~of this code~~].

9-40 SECTION 12. Section 11.134(b), Water Code, is amended to
 9-41 read as follows:

9-42 (b) The commission shall grant the application only if:

9-43 (1) the application conforms to the requirements
 9-44 prescribed by this chapter and is accompanied by the prescribed
 9-45 fee;

9-46 (2) unappropriated water is available in the source of
 9-47 supply;

9-48 (3) the proposed appropriation:
 9-49 (A) is intended for a beneficial use;
 9-50 (B) does not impair existing water rights or
 9-51 vested riparian rights;
 9-52 (C) is not detrimental to the public welfare;
 9-53 (D) considers any applicable environmental flow
 9-54 standards established under Section 11.1471 and, if applicable, the
 9-55 assessments performed under Sections 11.147(d) and (e) and Sections
 9-56 11.150, 11.151, and 11.152; and

9-57 (E) addresses a water supply need in a manner
 9-58 that is consistent with the state water plan and the relevant
 9-59 approved regional water plan for any area in which the proposed
 9-60 appropriation is located, unless the commission determines that
 9-61 conditions warrant waiver of this requirement; and

9-62 (4) the applicant has provided evidence that
 9-63 reasonable diligence will be used to avoid waste and achieve water
 9-64 conservation as defined by [~~Subdivision (8)(B),~~] Section
 9-65 11.002(8)(B) [~~11.002~~].

9-66 SECTION 13. Section 11.147, Water Code, is amended by
 9-67 amending Subsections (b), (d), and (e) and adding Subsections
 9-68 (e-1), (e-2), and (e-3) to read as follows:

9-69 (b) In its consideration of an application for a permit to

10-1 store, take, or divert water, the commission shall assess the
 10-2 effects, if any, of the issuance of the permit on the bays and
 10-3 estuaries of Texas. For permits issued within an area that is 200
 10-4 river miles of the coast, to commence from the mouth of the river
 10-5 thence inland, the commission shall include in the permit any
 10-6 conditions considered necessary to maintain beneficial inflows to
 10-7 any affected bay and estuary system, to the extent practicable when
 10-8 considering all public interests and the studies mandated by
 10-9 Section 16.058 as evaluated under Section 11.1491[~~those~~
 10-10 ~~conditions considered necessary to maintain beneficial inflows to~~
 10-11 ~~any affected bay and estuary system~~].

10-12 (d) In its consideration of an application to store, take,
 10-13 or divert water, the commission shall include in the permit, to the
 10-14 extent practicable when considering all public interests, those
 10-15 conditions considered by the commission necessary to maintain
 10-16 existing instream uses and water quality of the stream or river to
 10-17 which the application applies. In determining what conditions to
 10-18 include in the permit under this subsection, the commission shall
 10-19 consider among other factors:

10-20 (1) the studies mandated by Section 16.059; and

10-21 (2) any water quality assessment performed under
 10-22 Section 11.150.

10-23 (e) The commission shall include in the permit, to the
 10-24 extent practicable when considering all public interests, those
 10-25 conditions considered by the commission necessary to maintain fish
 10-26 and wildlife habitats. In determining what conditions to include
 10-27 in the permit under this subsection, the commission shall consider
 10-28 any assessment performed under Section 11.152.

10-29 (e-1) Any permit for a new appropriation of water or an
 10-30 amendment to an existing water right that increases the amount of
 10-31 water authorized to be stored, taken, or diverted must include a
 10-32 provision allowing the commission to adjust the conditions included
 10-33 in the permit or amended water right to provide for protection of
 10-34 instream flows or freshwater inflows. With respect to an amended
 10-35 water right, the provision may not allow the commission to adjust a
 10-36 condition of the amendment other than a condition that applies only
 10-37 to the increase in the amount of water to be stored, taken, or
 10-38 diverted authorized by the amendment. This subsection does not
 10-39 affect an appropriation of or an authorization to store, take, or
 10-40 divert water under a permit or amendment to a water right issued
 10-41 before September 1, 2007. The commission shall adjust the
 10-42 conditions if the commission determines, through an expedited
 10-43 public comment process, that such an adjustment is appropriate to
 10-44 achieve compliance with applicable environmental flow standards
 10-45 adopted under Section 11.1471. The adjustment:

10-46 (1) in combination with any previous adjustments made
 10-47 under this subsection may not increase the amount of the
 10-48 pass-through or release requirement for the protection of instream
 10-49 flows or freshwater inflows by more than 12.5 percent of the
 10-50 annualized total of that requirement contained in the permit as
 10-51 issued or of that requirement contained in the amended water right
 10-52 and applicable only to the increase in the amount of water
 10-53 authorized to be stored, taken, or diverted under the amended water
 10-54 right;

10-55 (2) must be based on appropriate consideration of the
 10-56 priority dates and diversion locations of any other water rights
 10-57 granted in the same river basin that are subject to adjustment under
 10-58 this subsection; and

10-59 (3) must be based on appropriate consideration of any
 10-60 voluntary contributions to the Texas Water Trust, and of any
 10-61 voluntary amendments to existing water rights to change the use of a
 10-62 specified quantity of water to or add a use of a specified quantity
 10-63 of water for instream flows dedicated to environmental needs or bay
 10-64 and estuary inflows as authorized by Section 11.0237(a), that
 10-65 actually contribute toward meeting the applicable environmental
 10-66 flow standards.

10-67 (e-2) Any water right holder who makes a contribution or
 10-68 amends a water right as described by Subsection (e-1)(3) is
 10-69 entitled to appropriate credit for the benefits of the contribution

11-1 or amendment against the adjustment of the holder's water right
 11-2 under Subsection (e-1).

11-3 (e-3) Notwithstanding Subsections (b)-(e), for the purpose
 11-4 of determining the environmental flow conditions necessary to
 11-5 maintain freshwater inflows to an affected bay and estuary system,
 11-6 existing instream uses and water quality of a stream or river, or
 11-7 fish and aquatic wildlife habitats, the commission shall apply any
 11-8 applicable environmental flow standard, including any
 11-9 environmental flow set-aside, adopted under Section 11.1471
 11-10 instead of considering the factors specified by those subsections.

11-11 SECTION 14. Subchapter D, Chapter 11, Water Code, is
 11-12 amended by adding Section 11.1471 to read as follows:

11-13 Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES.

11-14 (a) The commission by rule shall:

11-15 (1) adopt appropriate environmental flow standards
 11-16 for each river basin and bay system in this state that are adequate
 11-17 to support a sound ecological environment, to the maximum extent
 11-18 reasonable considering other public interests and other relevant
 11-19 factors;

11-20 (2) establish an amount of unappropriated water, if
 11-21 available, to be set aside to satisfy the environmental flow
 11-22 standards to the maximum extent reasonable when considering human
 11-23 water needs; and

11-24 (3) establish procedures for implementing an
 11-25 adjustment of the conditions included in a permit or an amended
 11-26 water right as provided by Sections 11.147(e-1) and (e-2).

11-27 (b) In adopting environmental flow standards for a river
 11-28 basin and bay system under Subsection (a)(1), the commission shall
 11-29 consider:

11-30 (1) the definition of the geographical extent of the
 11-31 river basin and bay system adopted by the advisory group under
 11-32 Section 11.02362(a) and the definition and designation of the river
 11-33 basin by the board under Section 16.051(c);

11-34 (2) the schedule established by the advisory group
 11-35 under Section 11.02362(d) or (e) for the adoption of environmental
 11-36 flow standards for the river basin and bay system, if applicable;

11-37 (3) the environmental flow analyses and the
 11-38 recommended environmental flow regime developed by the applicable
 11-39 basin and bay expert science team under Section 11.02362(m);

11-40 (4) the recommendations developed by the applicable
 11-41 basin and bay area stakeholders committee under Section 11.02362(o)
 11-42 regarding environmental flow standards and strategies to meet the
 11-43 flow standards;

11-44 (5) any comments submitted by the advisory group to
 11-45 the commission under Section 11.02362(q);

11-46 (6) the specific characteristics of the river basin
 11-47 and bay system;

11-48 (7) economic factors;

11-49 (8) the human and other competing water needs in the
 11-50 river basin and bay system;

11-51 (9) all reasonably available scientific information,
 11-52 including any scientific information provided by the science
 11-53 advisory committee; and

11-54 (10) any other appropriate information.

11-55 (c) Environmental flow standards adopted under Subsection
 11-56 (a)(1) must consist of a schedule of flow quantities, reflecting
 11-57 seasonal and yearly fluctuations that may vary geographically by
 11-58 specific location in a river basin and bay system.

11-59 (d) As provided by Section 11.023, the commission may not
 11-60 issue a permit for a new appropriation or an amendment to an
 11-61 existing water right that increases the amount of water authorized
 11-62 to be stored, taken, or diverted if the issuance of the permit or
 11-63 amendment would impair an environmental flow set-aside established
 11-64 under Subsection (a)(2). A permit for a new appropriation or an
 11-65 amendment to an existing water right that increases the amount of
 11-66 water authorized to be stored, taken, or diverted that is issued
 11-67 after the adoption of an applicable environmental flow set-aside
 11-68 must contain appropriate conditions to ensure protection of the
 11-69 environmental flow set-aside.

12-1 (e) An environmental flow set-aside established under
 12-2 Subsection (a)(2) for a river basin and bay system other than the
 12-3 middle and lower Rio Grande must be assigned a priority date
 12-4 corresponding to the date the commission receives environmental
 12-5 flow regime recommendations from the applicable basin and bay
 12-6 expert science team and be included in the appropriate water
 12-7 availability models in connection with an application for a permit
 12-8 for a new appropriation or for an amendment to an existing water
 12-9 right that increases the amount of water authorized to be stored,
 12-10 taken, or diverted.

12-11 (f) An environmental flow standard or environmental flow
 12-12 set-aside adopted under Subsection (a) may be altered by the
 12-13 commission in a rulemaking process undertaken in accordance with a
 12-14 schedule established by the commission. In establishing a
 12-15 schedule, the commission shall consider the applicable work plan
 12-16 approved by the advisory group under Section 11.02362(p). The
 12-17 commission's schedule may not provide for the rulemaking process to
 12-18 occur more frequently than once every 10 years unless the work plan
 12-19 provides for a periodic review under Section 11.02362(p) to occur
 12-20 more frequently than once every 10 years. In that event, the
 12-21 commission may provide for the rulemaking process to be undertaken
 12-22 in conjunction with the periodic review if the commission
 12-23 determines that schedule to be appropriate. A rulemaking process
 12-24 undertaken under this subsection must provide for the participation
 12-25 of stakeholders having interests in the particular river basin and
 12-26 bay system for which the process is undertaken.

12-27 SECTION 15. The heading to Section 11.148, Water Code, is
 12-28 amended to read as follows:

12-29 Sec. 11.148. EMERGENCY SUSPENSION OF PERMIT CONDITIONS AND
 12-30 EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR
 12-31 ENVIRONMENTAL FLOWS.

12-32 SECTION 16. Section 11.148, Water Code, is amended by
 12-33 adding Subsection (a-1) and amending Subsections (b) and (c) to
 12-34 read as follows:

12-35 (a-1) State water that is set aside by the commission to
 12-36 meet the needs for freshwater inflows to affected bays and
 12-37 estuaries and instream uses under Section 11.1471(a)(2) may be made
 12-38 available temporarily for other essential beneficial uses if the
 12-39 commission finds that an emergency exists that cannot practically
 12-40 be resolved in another way.

12-41 (b) Before the commission suspends a permit condition under
 12-42 Subsection (a) or makes water available temporarily under
 12-43 Subsection (a-1) [~~of this section~~], it must give written notice to
 12-44 the Parks and Wildlife Department of the proposed action
 12-45 [~~suspension~~]. The commission shall give the Parks and Wildlife
 12-46 Department an opportunity to submit comments on the proposed action
 12-47 [~~suspension~~] within 72 hours from such time and the commission
 12-48 shall consider those comments before issuing its order implementing
 12-49 the proposed action [~~imposing the suspension~~].

12-50 (c) The commission may suspend the permit condition under
 12-51 Subsection (a) or make water available temporarily under Subsection
 12-52 (a-1) without notice to any other interested party other than the
 12-53 Parks and Wildlife Department as provided by Subsection (b) [~~of~~
 12-54 this section]. However, all affected persons shall be notified
 12-55 immediately by publication, and a hearing to determine whether the
 12-56 suspension should be continued shall be held within 15 days of the
 12-57 date on which the order to suspend is issued.

12-58 SECTION 17. Section 11.1491(a), Water Code, is amended to
 12-59 read as follows:

12-60 (a) The Parks and Wildlife Department and the commission
 12-61 shall have joint responsibility to review the studies prepared
 12-62 under Section 16.058 [~~of this code~~], to determine inflow conditions
 12-63 necessary for the bays and estuaries, and to provide information
 12-64 necessary for water resources management. Each agency shall
 12-65 designate an employee to share equally in the oversight of the
 12-66 program. Other responsibilities shall be divided between the Parks
 12-67 and Wildlife Department and the commission to maximize present
 12-68 in-house capabilities of personnel and to minimize costs to the
 12-69 state. Each agency shall have reasonable access to all information

13-1 produced by the other agency. Publication of reports completed
 13-2 under this section shall be submitted for comment to ~~[both]~~ the
 13-3 commission, ~~[and]~~ the Parks and Wildlife Department, the advisory
 13-4 group, the science advisory committee, and any applicable basin and
 13-5 bay area stakeholders committee and basin and bay expert science
 13-6 team.

13-7 SECTION 18. Section 11.329(g), Water Code, is amended to
 13-8 read as follows:

13-9 (g) The commission may not assess costs under this section
 13-10 against a holder of a non-priority hydroelectric right that owns or
 13-11 operates privately owned facilities that collectively have a
 13-12 capacity of less than two megawatts or against a holder of a water
 13-13 right placed in the Texas Water Trust for a term of at least 20
 13-14 years. [This subsection is not intended to affect in any way the
 13-15 fees assessed on a water right holder by the commission under
 13-16 Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular
 13-17 Session, 1993. For purposes of Section 1.29(d), Chapter 626, Acts
 13-18 of the 73rd Legislature, Regular Session, 1993, a holder of a
 13-19 non-priority hydroelectric right that owns or operates privately
 13-20 owned facilities that collectively have a capacity of less than two
 13-21 megawatts shall be assessed fees at the same rate per acre-foot
 13-22 charged to a holder of a non-priority hydroelectric right that owns
 13-23 or operates privately owned facilities that collectively have a
 13-24 capacity of more than two megawatts.]

13-25 SECTION 19. Section 11.404(e), Water Code, is amended to
 13-26 read as follows:

13-27 (e) The court may not assess costs and expenses under this
 13-28 section against:

13-29 (1) a holder of a non-priority hydroelectric right
 13-30 that owns or operates privately owned facilities that collectively
 13-31 have a capacity of less than two megawatts; or

13-32 (2) a holder of a water right placed in the Texas Water
 13-33 Trust for a term of at least 20 years.

13-34 SECTION 20. Subchapter I, Chapter 11, Water Code, is
 13-35 amended by adding Section 11.4531 to read as follows:

13-36 Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For
 13-37 each river basin or segment of a river basin for which the executive
 13-38 director appoints a watermaster under this subchapter, the
 13-39 executive director shall appoint a watermaster advisory committee
 13-40 consisting of at least nine but not more than 15 members. A member
 13-41 of the advisory committee must be a holder of a water right or a
 13-42 representative of a holder of a water right in the river basin or
 13-43 segment of the river basin for which the watermaster is appointed.
 13-44 In appointing members to the advisory committee, the executive
 13-45 director shall consider:

13-46 (1) geographic representation;
 13-47 (2) amount of water rights held;
 13-48 (3) different types of holders of water rights and
 13-49 users, including water districts, municipal suppliers, irrigators,
 13-50 and industrial users; and

13-51 (4) experience and knowledge of water management
 13-52 practices.

13-53 (b) An advisory committee member is not entitled to
 13-54 reimbursement of expenses or to compensation.

13-55 (c) An advisory committee member serves a two-year term
 13-56 expiring August 31 of each odd-numbered year and holds office until
 13-57 a successor is appointed.

13-58 (d) The advisory committee shall meet within 30 days after
 13-59 the date the initial appointments have been made and shall select a
 13-60 presiding officer to serve a one-year term. The committee shall
 13-61 meet regularly as necessary.

13-62 (e) The advisory committee shall:

13-63 (1) make recommendations to the executive director
 13-64 regarding activities of benefit to the holders of water rights in
 13-65 the administration and distribution of water to holders of water
 13-66 rights in the river basin or segment of the river basin for which
 13-67 the watermaster is appointed;

13-68 (2) review and comment to the executive director on
 13-69 the annual budget of the watermaster operation; and

14-1 (3) perform other advisory duties as requested by the
 14-2 executive director regarding the watermaster operation or as
 14-3 requested by holders of water rights and considered by the
 14-4 committee to benefit the administration of water rights in the
 14-5 river basin or segment of the river basin for which the watermaster
 14-6 is appointed.

14-7 SECTION 21. Sections 11.454 and 11.455, Water Code, are
 14-8 amended to read as follows:

14-9 Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER.
 14-10 Section 11.327 applies to the duties and authority of a watermaster
 14-11 appointed for a river basin or segment of a river basin under this
 14-12 subchapter in the same manner as that section applies to the duties
 14-13 and authority of a watermaster appointed for a water division under
 14-14 Subchapter G ~~[A watermaster as the agent of the commission and under~~
 14-15 ~~the executive director's supervision shall:~~

14-16 ~~[(1) divide the water of the streams or other sources~~
 14-17 ~~of supply of his segment or basin in accordance with the authorized~~
 14-18 ~~water rights;~~

14-19 ~~[(2) regulate or cause to be regulated the controlling~~
 14-20 ~~works of reservoirs and diversion works in time of water shortage,~~
 14-21 ~~as is necessary because of the rights existing in the streams of his~~
 14-22 ~~segment or basin, or as is necessary to prevent the waste of water~~
 14-23 ~~or its diversion, taking, storage, or use in excess of the~~
 14-24 ~~quantities to which the holders of water rights are lawfully~~
 14-25 ~~entitled; and~~

14-26 ~~[(3) perform any other duties and exercise any~~
 14-27 ~~authority directed by the commission].~~

14-28 Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER
 14-29 ~~[ASSESSMENTS].~~ (a) Section 11.329 applies to the payment of the
 14-30 compensation and expenses of a watermaster appointed for a river
 14-31 basin or segment of a river basin under this subchapter in the same
 14-32 manner as that section applies to the payment of the compensation
 14-33 and expenses of a watermaster appointed for a water division under
 14-34 Subchapter G.

14-35 (b) The executive director shall deposit the assessments
 14-36 collected under this section to the credit of the watermaster fund.

14-37 (c) Money deposited under this section to the credit of the
 14-38 watermaster fund may be used only for the purposes specified by
 14-39 Section 11.3291 with regard to the watermaster operation under this
 14-40 subchapter with regard to which the assessments were collected ~~[The~~
 14-41 ~~commission may assess the costs of the watermaster against all~~
 14-42 ~~persons who hold water rights in the river basin or segment of the~~
 14-43 ~~river basin under the watermaster's jurisdiction in accordance with~~
 14-44 ~~Section 11.329 of this code].~~

14-45 SECTION 22. Subchapter F, Chapter 15, Water Code, is
 14-46 amended by adding Section 15.4063 to read as follows:

14-47 Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. The board may
 14-48 authorize the use of money in the research and planning fund:

14-49 (1) to compensate the members of the Texas
 14-50 environmental flows science advisory committee established under
 14-51 Section 11.02361 for attendance and participation at meetings of
 14-52 the committee and for transportation, meals, lodging, or other
 14-53 travel expenses associated with attendance at those meetings as
 14-54 provided by the General Appropriations Act;

14-55 (2) for contracts with cooperating state and federal
 14-56 agencies and universities and with private entities as necessary to
 14-57 provide technical assistance to enable the Texas environmental
 14-58 flows science advisory committee and the basin and bay expert
 14-59 science teams established under Section 11.02362 to perform their
 14-60 statutory duties;

14-61 (3) to compensate the members of the basin and bay
 14-62 expert science teams established under Section 11.02362 for
 14-63 attendance and participation at meetings of the basin and bay
 14-64 expert science teams and for transportation, meals, lodging, or
 14-65 other travel expenses associated with attendance at those meetings
 14-66 as provided by the General Appropriations Act; and

14-67 (4) for contracts with political subdivisions
 14-68 designated as representatives of basin and bay area stakeholders
 14-69 committees established under Section 11.02362 to fund all or part

15-1 of the administrative expenses incurred in conducting meetings of
 15-2 the basin and bay area stakeholders committees or the pertinent
 15-3 basin and bay expert science teams.

15-4 SECTION 23. Section 16.059(d), Water Code, is amended to
 15-5 read as follows:

15-6 (d) The priority studies shall be completed not later than
 15-7 December 31, 2016 [~~2010~~]. The Parks and Wildlife Department, the
 15-8 commission, and the board shall establish a work plan that
 15-9 prioritizes the studies and that sets interim deadlines providing
 15-10 for publication of flow determinations for individual rivers and
 15-11 streams on a reasonably consistent basis throughout the prescribed
 15-12 study period. Before publication, completed studies shall be
 15-13 submitted for comment to the commission, the board, and the Parks
 15-14 and Wildlife Department.

15-15 SECTION 24. Section 26.0135(h), Water Code, as amended by
 15-16 Chapters 234 and 965, Acts of the 77th Legislature, Regular
 15-17 Session, 2001, is reenacted and amended to read as follows:

15-18 (h) The commission shall apportion, assess, and recover the
 15-19 reasonable costs of administering the water quality management
 15-20 programs under this section from users of water and wastewater
 15-21 permit holders in the watershed according to the records of the
 15-22 commission generally in proportion to their right, through permit
 15-23 or contract, to use water from and discharge wastewater in the
 15-24 watershed. Irrigation water rights, [~~and~~] non-priority
 15-25 hydroelectric rights of a water right holder that owns or operates
 15-26 privately owned facilities that collectively have a capacity of
 15-27 less than two megawatts, and water rights held in the Texas Water
 15-28 Trust for terms of at least 20 years will not be subject to this
 15-29 assessment. The cost to river authorities and others to conduct
 15-30 water quality monitoring and assessment shall be subject to prior
 15-31 review and approval by the commission as to methods of allocation
 15-32 and total amount to be recovered. The commission shall adopt rules
 15-33 to supervise and implement the water quality monitoring,
 15-34 assessment, and associated costs. The rules shall ensure that
 15-35 water users and wastewater dischargers do not pay excessive
 15-36 amounts, that program funds are equitably apportioned among basins,
 15-37 that a river authority may recover no more than the actual costs of
 15-38 administering the water quality management programs called for in
 15-39 this section, and that no municipality shall be assessed cost for
 15-40 any efforts that duplicate water quality management activities
 15-41 described in Section 26.177 [~~of this chapter~~]. The rules
 15-42 concerning the apportionment and assessment of reasonable costs
 15-43 shall provide for a recovery of not more than \$5,000,000 annually.
 15-44 Costs recovered by the commission are to be deposited to the credit
 15-45 of the water resource management account and may be used only to
 15-46 accomplish the purposes of this section. The commission may apply
 15-47 not more than 10 percent of the costs recovered annually toward the
 15-48 commission's overhead costs for the administration of this section
 15-49 and the implementation of regional water quality assessments. The
 15-50 commission, with the assistance and input of each river authority,
 15-51 shall file a written report accounting for the costs recovered
 15-52 under this section with the governor, the lieutenant governor, and
 15-53 the speaker of the house of representatives on or before December 1
 15-54 of each even-numbered year.

15-55 SECTION 25. Section 11.1491(b), Water Code, is repealed.

15-56 SECTION 26. (a) The governor, lieutenant governor, and
 15-57 speaker of the house of representatives shall appoint the initial
 15-58 members of the environmental flows advisory group as provided by
 15-59 Section 11.0236, Water Code, as added by this Act, as soon as
 15-60 practicable on or after the effective date of this Act.

15-61 (b) As soon as practicable after taking office, the initial
 15-62 members of the environmental flows advisory group shall appoint the
 15-63 initial members of the Texas environmental flows science advisory
 15-64 committee as provided by Section 11.02361, Water Code, as added by
 15-65 this Act. The terms of the initial members of the committee expire
 15-66 March 1, 2012.

15-67 (c) The environmental flows advisory group shall appoint
 15-68 the members of each basin and bay area stakeholders committee as
 15-69 provided by Section 11.02362, Water Code, as added by this Act. The

16-1 terms of the initial members of each committee expire March 1 of the
16-2 fifth year that begins after the year in which the initial
16-3 appointments are made.

16-4 (d) Each basin and bay area stakeholders committee shall
16-5 appoint the members of the basin and bay expert science team for the
16-6 river basin and bay system for which the committee is established as
16-7 provided by Section 11.02362, Water Code, as added by this Act. The
16-8 terms of the initial members of each team expire April 1 of the
16-9 fifth year that begins after the year in which the initial
16-10 appointments are made.

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

16-19 SECTION 27. The changes in law made by this Act relating to
16-20 a permit for a new appropriation of water or to an amendment to an
16-21 existing water right that increases the amount of water authorized
16-22 to be stored, taken, or diverted apply only to:

16-23 (1) water appropriated under a permit for a new
16-24 appropriation of water the application for which is pending with
16-25 the Texas Commission on Environmental Quality on the effective date
16-26 of this Act or is filed with the commission on or after that date; or

16-27 (2) the increase in the amount of water authorized to
16-28 be stored, taken, or diverted under an amendment to an existing
16-29 water right that increases the amount of water authorized to be
16-30 stored, taken, or diverted and the application for which is pending
16-31 with the Texas Commission on Environmental Quality on the effective
16-32 date of this Act or is filed with the commission on or after that
16-33 date.

16-34 SECTION 28. This Act takes effect September 1, 2007.

16-35 * * * * *