

By: Averitt

S.B. No. 3

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

By: Puente

C.S.S.B. No. 3

A BILL TO BE ENTITLED

AN ACT

relating to the development, management, and preservation of the water resources of the state; providing penalties.

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

ARTICLE 1. ENVIRONMENTAL FLOWS

SECTION 1.01. The heading to Section 5.506, Water Code, is amended to read as follows:

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

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

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

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

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

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

10 SECTION 1.03. Subsection (j), Section 5.701, Water Code, is
11 amended to read as follows:

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

19 SECTION 1.04. Section 11.002, Water Code, is amended by
20 adding Subdivisions (15), (16), (17), (18), and (19) to read as
21 follows:

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

26 (16) "Environmental flow regime" means a schedule of
27 flow quantities that reflects seasonal and yearly fluctuations that

1 typically would vary geographically, by specific location in a
2 watershed, and that are shown to be adequate to support a sound
3 ecological environment and to maintain the productivity, extent,
4 and persistence of key aquatic habitats in and along the affected
5 water bodies.

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

8 (18) "Advisory group" means the environmental flows
9 advisory group.

10 (19) "Science advisory committee" means the Texas
11 environmental flows science advisory committee.

12 SECTION 1.05. Subsection (a), Section 11.023, Water Code,
13 is amended to read as follows:

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

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

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

24 (3) mining and recovery of minerals;

25 (4) hydroelectric power;

26 (5) navigation;

27 (6) recreation and pleasure;

1 (7) public parks; and

2 (8) game preserves.

3 SECTION 1.06. Section 11.0235, Water Code, is amended by
4 amending Subsections (b), (c), and (e) and adding Subsections (d-1)
5 through (d-6) and (f) to read as follows:

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

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

22 (d-1) The legislature has determined that existing water
23 rights that are amended to authorize use for environmental purposes
24 should be enforced in a manner consistent with the enforcement of
25 water rights for other purposes as provided by the laws of this
26 state governing the appropriation of state water.

27 (d-2) The legislature finds that to provide certainty in

1 water management and development and to provide adequate protection
2 of the state's streams, rivers, and bays and estuaries, the state
3 must have a process with specific timelines for prompt action to
4 address environmental flow issues in the state's major basin and
5 bay systems, especially those systems in which unappropriated water
6 is still available.

7 (d-3) The legislature finds that:

8 (1) in those basins in which water is available for
9 appropriation, the commission should establish an environmental
10 set-aside below which water should not be available for
11 appropriation; and

12 (2) in those basins in which the unappropriated water
13 that will be set aside for instream flow and freshwater inflow
14 protection is not sufficient to fully satisfy the environmental
15 flow standards established by the commission, a variety of market
16 approaches, both public and private, for filling the gap must be
17 explored and pursued.

18 (d-4) The legislature finds that while the state has
19 pioneered tools to address freshwater inflow needs for bays and
20 estuaries, there are limitations to those tools in light of both
21 scientific and public policy evolution. To fully address bay and
22 estuary environmental flow issues, the foundation of work
23 accomplished by the state should be improved. While the state's
24 instream flow studies program appears to encompass a comprehensive
25 and scientific approach for establishing a process to assess
26 instream flow needs for rivers and streams across the state, more
27 extensive review and examination of the details of the program,

1 which may not be fully developed until the program is under way, are
2 needed to ensure an effective tool for evaluating riverine
3 environmental flow conditions.

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

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

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

27 (f) The legislature recognizes that effective

1 implementation of the approach provided by this chapter for
2 protecting instream flows and freshwater inflows will require more
3 effective water rights administration and enforcement systems than
4 are currently available in most areas of the state.

5 SECTION 1.07. Subchapter B, Chapter 11, Water Code, is
6 amended by adding Sections 11.0236, 11.02361, 11.02362, and 11.0237
7 to read as follows:

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

13 (b) The advisory group is composed of nine members as
14 follows:

15 (1) three members appointed by the governor;

16 (2) three members of the senate appointed by the
17 lieutenant governor; and

18 (3) three members of the house of representatives
19 appointed by the speaker of the house of representatives.

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

21 (1) one member must be a member of the commission;

22 (2) one member must be a member of the board; and

23 (3) one member must be a member of the Parks and
24 Wildlife Commission.

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

27 (e) The appointed senator with the most seniority and the

1 appointed house member with the most seniority serve together as
2 co-presiding officers of the advisory group.

3 (f) A member of the advisory group is not entitled to
4 receive compensation for service on the advisory group but is
5 entitled to reimbursement of the travel expenses incurred by the
6 member while conducting the business of the advisory group, as
7 provided by the General Appropriations Act.

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

10 (h) The commission shall provide staff support for the
11 advisory group.

12 (i) The advisory group shall conduct public hearings and
13 study public policy implications for balancing the demands on the
14 water resources of the state resulting from a growing population
15 with the requirements of the riverine, bay, and estuary systems
16 including granting permits for instream flows dedicated to
17 environmental needs or bay and estuary inflows, use of the Texas
18 Water Trust, and any other issues that the advisory group
19 determines have importance and relevance to the protection of
20 environmental flows. In evaluating the options for providing
21 adequate environmental flows, the advisory group shall take notice
22 of the strong public policy imperative that exists in this state
23 recognizing that environmental flows are important to the
24 biological health of our public and private lands, streams and
25 rivers, and bay and estuary systems and are high priorities in the
26 water management process. The advisory group shall specifically
27 address:

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

4 (2) appropriate methods to encourage persons
5 voluntarily to convert reasonable amounts of existing water rights
6 to use for environmental flow protection temporarily or
7 permanently.

8 (j) The advisory group may adopt rules, procedures, and
9 policies as needed to administer this section, to implement its
10 responsibilities, and to exercise its authority under Sections
11 11.02361 and 11.02362.

12 (k) Chapter 2110, Government Code, does not apply to the
13 size, composition, or duration of the advisory group.

14 (l) Not later than December 1, 2008, and every two years
15 thereafter, the advisory group shall issue and promptly deliver to
16 the governor, lieutenant governor, and speaker of the house of
17 representatives copies of a report summarizing:

18 (1) any hearings conducted by the advisory group;
19 (2) any studies conducted by the advisory group;
20 (3) any legislation proposed by the advisory group;
21 (4) progress made in implementing Sections 11.02361
22 and 11.02362; and

23 (5) any other findings and recommendations of the
24 advisory group.

25 (m) The advisory group is abolished on the date that the
26 commission has adopted environmental flow standards under Section
27 11.1471 for all of the river basin and bay systems in this state.

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

5 (b) The advisory group shall appoint to the science advisory
6 committee persons who will provide an objective perspective and
7 diverse technical expertise, including expertise in hydrology,
8 hydraulics, water resources, aquatic and terrestrial biology,
9 geomorphology, geology, water quality, computer modeling, and
10 other technical areas pertinent to the evaluation of environmental
11 flows.

12 (c) Members of the science advisory committee serve
13 five-year terms expiring March 1. A vacancy on the science advisory
14 committee is filled by appointment by the co-presiding officers of
15 the advisory group for the unexpired term.

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

18 (e) The science advisory committee shall:

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

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

24 (A) environmental flow methodologies for bay and
25 estuary studies and instream flow studies;

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

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

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

9 (1) the actions taken by each agency in response to
10 each recommendation; and

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

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

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

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

26 (1) the river basin and bay system consisting of the
27 Trinity and San Jacinto Rivers and Galveston Bay and the river basin

1 and bay system consisting of the Sabine and Neches Rivers and Sabine
2 Lake Bay;

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

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

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

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

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

20 (3) the basin and bay expert science team shall
21 finalize environmental flow regime recommendations and submit them
22 to the basin and bay area stakeholders committee, the advisory
23 group, and the commission not later than March 1, 2009, except that
24 at the request of the basin and bay area stakeholders committee for
25 good cause shown, the advisory group may extend the deadline
26 provided by this subdivision;

27 (4) the basin and bay area stakeholders committee

1 shall submit to the commission its comments on and recommendations
2 regarding the basin and bay expert science team's recommended
3 environmental flow regime not later than September 1, 2009; and

4 (5) the commission shall adopt the environmental flow
5 standards as provided by Section 11.1471 not later than September
6 1, 2010.

7 (d) The advisory group shall appoint the basin and bay area
8 stakeholders committees for the river basin and bay systems listed
9 in Subsection (b)(2) not later than September 1, 2008, and shall
10 appoint the basin and bay area stakeholders committees for the
11 river basin and bay systems listed in Subsection (b)(3) not later
12 than September 1, 2009. The advisory group shall establish a
13 schedule for the performance of the tasks listed in Subsections
14 (c)(2) through (5) with regard to the river basin and bay systems
15 listed in Subsections (b)(2) and (3) that will result in the
16 adoption of environmental flow standards for that river basin and
17 bay system by the commission as soon as is reasonably possible.
18 Each basin and bay area stakeholders committee and basin and bay
19 expert science team for a river basin and bay system listed in
20 Subsection (b)(2) or (3) shall make recommendations to the advisory
21 group with regard to the schedule applicable to that river basin and
22 bay system. The advisory group shall consider the recommendations
23 of the basin and bay area stakeholders committee and basin and bay
24 expert science team as well as coordinate with, and give
25 appropriate consideration to the recommendations of, the
26 commission, the Parks and Wildlife Department, and the board in
27 establishing the schedule.

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

19 (f) The advisory group shall appoint a basin and bay area
20 stakeholders committee for each river basin and bay system in this
21 state for which a schedule for the development of environmental
22 flow regime recommendations and the adoption of environmental flow
23 standards is specified by or established under Subsection (c), (d),
24 or (e). Chapter 2110, Government Code, does not apply to the size,
25 composition, or duration of a basin and bay area stakeholders
26 committee. Each committee must consist of at least 17 members. The
27 membership of each committee must:

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

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

7 (A) agricultural water users, including
8 representatives of each of the following sectors:

9 (i) agricultural irrigation;

10 (ii) free-range livestock; and

11 (iii) concentrated animal feeding
12 operation;

13 (B) recreational water users, including coastal
14 recreational anglers and businesses supporting water recreation;

15 (C) municipalities;

16 (D) soil and water conservation districts;

17 (E) industrial water users, including
18 representatives of each of the following sectors:

19 (i) refining;

20 (ii) chemical manufacturing;

21 (iii) electricity generation; and

22 (iv) production of paper products or
23 timber;

24 (F) commercial fishermen;

25 (G) public interest groups;

26 (H) regional water planning groups;

27 (I) groundwater conservation districts;

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

3 (K) environmental interests.

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

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

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

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

27 (k) The science advisory committee shall appoint one of its

1 members to serve as a liaison to each basin and bay expert science
2 team to facilitate coordination and consistency in environmental
3 flow activities throughout the state. The commission, the Parks
4 and Wildlife Department, and the board shall provide technical
5 assistance to each basin and bay expert science team, including
6 information about the studies conducted under Sections 16.058 and
7 16.059, and may serve as nonvoting members of the basin and bay
8 expert science team to facilitate the development of environmental
9 flow regime recommendations.

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

12 (m) Each basin and bay expert science team shall develop
13 environmental flow analyses and a recommended environmental flow
14 regime for the river basin and bay system for which the team is
15 established through a collaborative process designed to achieve a
16 consensus. In developing the analyses and recommendations, the
17 science team must consider all reasonably available science,
18 without regard to the need for the water for other uses, and the
19 science team's recommendations must be based solely on the best
20 science available. For the Rio Grande below Fort Quitman, any uses
21 attributable to Mexican water flows must be excluded from
22 environmental flow regime recommendations.

23 (n) Each basin and bay expert science team shall submit its
24 environmental flow analyses and environmental flow regime
25 recommendations to the pertinent basin and bay area stakeholders
26 committee, the advisory group, and the commission in accordance
27 with the applicable schedule specified by or established under

1 Subsection (c), (d), or (e). The basin and bay area stakeholders
2 committee and the advisory group may not change the environmental
3 flow analyses or environmental flow regime recommendations of the
4 basin and bay expert science team.

5 (o) Each basin and bay area stakeholders committee shall
6 review the environmental flow analyses and environmental flow
7 regime recommendations submitted by the committee's basin and bay
8 expert science team and shall consider them in conjunction with
9 other factors, including the present and future needs for water for
10 other uses related to water supply planning in the pertinent river
11 basin and bay system. For the Rio Grande, the basin and bay area
12 stakeholders committee shall also consider the water accounting
13 requirements for any international water sharing treaty, minutes,
14 and agreement applicable to the Rio Grande and the effects on
15 allocation of water by the Rio Grande watermaster in the middle and
16 lower Rio Grande. The Rio Grande basin and bay expert science team
17 may not recommend any environmental flow regime that would result
18 in a violation of a treaty or court decision. The basin and bay area
19 stakeholders committee shall develop recommendations regarding
20 environmental flow standards and strategies to meet the
21 environmental flow standards and submit those recommendations to
22 the commission and to the advisory group in accordance with the
23 applicable schedule specified by or established under Subsection
24 (c), (d), or (e). In developing its recommendations, the basin and
25 bay area stakeholders committee shall operate on a consensus basis
26 to the maximum extent possible.

27 (p) In recognition of the importance of adaptive

1 management, after submitting its recommendations regarding
2 environmental flow standards and strategies to meet the
3 environmental flow standards to the commission, each basin and bay
4 area stakeholders committee, with the assistance of the pertinent
5 basin and bay expert science team, shall prepare and submit for
6 approval by the advisory group a work plan. The work plan must:

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

11 (2) prescribe specific monitoring, studies, and
12 activities; and

13 (3) establish a schedule for continuing the validation
14 or refinement of the basin and bay environmental flow analyses and
15 environmental flow regime recommendations, the environmental flow
16 standards adopted by the commission, and the strategies to achieve
17 those standards.

18 (g) In accordance with the applicable schedule specified by
19 or established under Subsection (c), (d), or (e), the advisory
20 group, with input from the science advisory committee, shall review
21 the environmental flow analyses and environmental flow regime
22 recommendations submitted by each basin and bay expert science
23 team. If appropriate, the advisory group shall submit comments on
24 the analyses and recommendations to the commission for use by the
25 commission in adopting rules under Section 11.1471. Comments must
26 be submitted not later than six months after the date of receipt of
27 the analyses and recommendations.

1 (r) Notwithstanding the other provisions of this section,
2 in the event the commission, by permit or order, has established an
3 estuary advisory council with specific duties related to
4 implementation of permit conditions for environmental flows, that
5 council may continue in full force and effect and shall act as and
6 perform the duties of the basin and bay area stakeholders committee
7 under this section. The estuary advisory council shall add members
8 from stakeholder groups and from appropriate science and technical
9 groups, if necessary, to fully meet the criteria for membership
10 established in Subsection (f) and shall operate under the
11 provisions of this section.

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

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

22 (b) This section does not alter the commission's
23 obligations under Section 11.042(b) or (c), 11.046(b),
24 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491,
25 11.150, 11.152, 16.058, or 16.059.

26 SECTION 1.08. Subsection (b), Section 11.082, Water Code,
27 is amended to read as follows:

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

7 SECTION 1.09. Section 11.0841, Water Code, is amended by
8 adding Subsection (c) to read as follows:

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

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

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

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

21 SECTION 1.10. Subsection (a), Section 11.0842, Water Code,
22 is amended to read as follows:

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

1 commission may assess an administrative penalty for a violation
2 relating to a water division or a river basin or segment of a river
3 basin regardless of whether a watermaster has been appointed for
4 the water division or river basin or segment of the river basin.

5 SECTION 1.11. Subsection (a), Section 11.0843, Water Code,
6 is amended to read as follows:

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

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

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

21 SECTION 1.12. Subsection (b), Section 11.134, Water Code,
22 is amended to read as follows:

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

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

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

1 supply;

2 (3) the proposed appropriation:

3 (A) is intended for a beneficial use;

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

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

7 (D) considers any applicable environmental flow
8 standards established under Section 11.1471 and, if applicable, the
9 assessments performed under Sections 11.147(d) and (e) and Sections
10 11.150, 11.151, and 11.152; and

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

16 (4) the applicant has provided evidence that
17 reasonable diligence will be used to avoid waste and achieve water
18 conservation as defined by [~~Subdivision (8)(B),~~] Section
19 11.002(8)(B) [~~11.002~~].

20 SECTION 1.13. Section 11.147, Water Code, is amended by
21 amending Subsections (b), (d), and (e) and adding Subsections
22 (e-1), (e-2), and (e-3) to read as follows:

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

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

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

16 (1) the studies mandated by Section 16.059; and

17 (2) any water quality assessment performed under
18 Section 11.150.

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

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

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

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

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

1 (3) must be based on appropriate consideration of any
2 voluntary contributions to the Texas Water Trust, and of any
3 voluntary amendments to existing water rights to change the use of a
4 specified quantity of water to or add a use of a specified quantity
5 of water for instream flows dedicated to environmental needs or bay
6 and estuary inflows as authorized by Section 11.0237(a), that
7 actually contribute toward meeting the applicable environmental
8 flow standards.

9 (e-2) Any water right holder who makes a contribution or
10 amends a water right as described by Subsection (e-1)(3) is
11 entitled to appropriate credit for the benefits of the contribution
12 or amendment against the adjustment of the holder's water right
13 under Subsection (e-1).

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

22 SECTION 1.14. Subchapter D, Chapter 11, Water Code, is
23 amended by adding Section 11.1471 to read as follows:

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

25 (a) The commission by rule shall:

26 (1) adopt appropriate environmental flow standards
27 for each river basin and bay system in this state that are adequate

1 to support a sound ecological environment, to the maximum extent
2 reasonable considering other public interests and other relevant
3 factors;

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

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

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

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

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

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

24 (4) the recommendations developed by the applicable
25 basin and bay area stakeholders committee under Section 11.02362(o)
26 regarding environmental flow standards and strategies to meet the
27 flow standards;

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

3 (6) the specific characteristics of the river basin
4 and bay system;

5 (7) economic factors;

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

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

11 (10) any other appropriate information.

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

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

27 (e) An environmental flow set-aside established under

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

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

26 SECTION 1.15. The heading to Section 11.148, Water Code, is
27 amended to read as follows:

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

4 SECTION 1.16. Section 11.148, Water Code, is amended by
5 adding Subsection (a-1) and amending Subsections (b) and (c) to
6 read as follows:

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

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

22 (c) The commission may suspend the permit condition under
23 Subsection (a) or make water available temporarily under Subsection
24 (a-1) without notice to any other interested party other than the
25 Parks and Wildlife Department as provided by Subsection (b) [of
26 this section]. However, all affected persons shall be notified
27 immediately by publication, and a hearing to determine whether the

1 suspension should be continued shall be held within 15 days of the
2 date on which the order to suspend is issued.

3 SECTION 1.17. Subsection (a), Section 11.1491, Water Code,
4 is amended to read as follows:

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

21 SECTION 1.18. Subsection (g), Section 11.329, Water Code,
22 is amended to read as follows:

23 (g) The commission may not assess costs under this section
24 against a holder of a non-priority hydroelectric right that owns or
25 operates privately owned facilities that collectively have a
26 capacity of less than two megawatts or against a holder of a water
27 right placed in the Texas Water Trust for a term of at least 20

1 years. [~~This subsection is not intended to affect in any way the~~
2 ~~fees assessed on a water right holder by the commission under~~
3 ~~Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular~~
4 ~~Session, 1993. For purposes of Section 1.29(d), Chapter 626, Acts~~
5 ~~of the 73rd Legislature, Regular Session, 1993, a holder of a~~
6 ~~non-priority hydroelectric right that owns or operates privately~~
7 ~~owned facilities that collectively have a capacity of less than two~~
8 ~~megawatts shall be assessed fees at the same rate per acre-foot~~
9 ~~charged to a holder of a non-priority hydroelectric right that owns~~
10 ~~or operates privately owned facilities that collectively have a~~
11 ~~capacity of more than two megawatts.]~~

12 SECTION 1.19. Subsection (e), Section 11.404, Water Code,
13 is amended to read as follows:

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

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

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

21 SECTION 1.20. Subchapter I, Chapter 11, Water Code, is
22 amended by adding Section 11.4531 to read as follows:

23 Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For
24 each river basin or segment of a river basin for which the executive
25 director appoints a watermaster under this subchapter, the
26 executive director shall appoint a watermaster advisory committee
27 consisting of at least nine but not more than 15 members. A member

1 of the advisory committee must be a holder of a water right or a
2 representative of a holder of a water right in the river basin or
3 segment of the river basin for which the watermaster is appointed.
4 In appointing members to the advisory committee, the executive
5 director shall consider:

6 (1) geographic representation;

7 (2) amount of water rights held;

8 (3) different types of holders of water rights and
9 users, including water districts, municipal suppliers, irrigators,
10 and industrial users; and

11 (4) experience and knowledge of water management
12 practices.

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

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

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

22 (e) The advisory committee shall:

23 (1) make recommendations to the executive director
24 regarding activities of benefit to the holders of water rights in
25 the administration and distribution of water to holders of water
26 rights in the river basin or segment of the river basin for which
27 the watermaster is appointed;

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

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

9 SECTION 1.21. Sections 11.454 and 11.455, Water Code, are
10 amended to read as follows:

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

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

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

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

3 Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER
4 ~~[ASSESSMENTS]~~. (a) Section 11.329 applies to the payment of the
5 compensation and expenses of a watermaster appointed for a river
6 basin or segment of a river basin under this subchapter in the same
7 manner as that section applies to the payment of the compensation
8 and expenses of a watermaster appointed for a water division under
9 Subchapter G.

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

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

20 SECTION 1.22. Subchapter F, Chapter 15, Water Code, is
21 amended by adding Section 15.4063 to read as follows:

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

24 (1) to compensate the members of the Texas
25 environmental flows science advisory committee established under
26 Section 11.02361 for attendance and participation at meetings of
27 the committee and for transportation, meals, lodging, or other

1 travel expenses associated with attendance at those meetings as
2 provided by the General Appropriations Act;

3 (2) for contracts with cooperating state and federal
4 agencies and universities and with private entities as necessary to
5 provide technical assistance to enable the Texas environmental
6 flows science advisory committee and the basin and bay expert
7 science teams established under Section 11.02362 to perform their
8 statutory duties;

9 (3) to compensate the members of the basin and bay
10 expert science teams established under Section 11.02362 for
11 attendance and participation at meetings of the basin and bay
12 expert science teams and for transportation, meals, lodging, or
13 other travel expenses associated with attendance at those meetings
14 as provided by the General Appropriations Act; and

15 (4) for contracts with political subdivisions
16 designated as representatives of basin and bay area stakeholders
17 committees established under Section 11.02362 to fund all or part
18 of the administrative expenses incurred in conducting meetings of
19 the basin and bay area stakeholders committees or the pertinent
20 basin and bay expert science teams.

21 SECTION 1.23. Subsection (d), Section 16.059, Water Code,
22 is amended to read as follows:

23 (d) The priority studies shall be completed not later than
24 December 31, 2016 [~~2010~~]. The Parks and Wildlife Department, the
25 commission, and the board shall establish a work plan that
26 prioritizes the studies and that sets interim deadlines providing
27 for publication of flow determinations for individual rivers and

1 streams on a reasonably consistent basis throughout the prescribed
2 study period. Before publication, completed studies shall be
3 submitted for comment to the commission, the board, and the Parks
4 and Wildlife Department.

5 SECTION 1.24. Subsection (h), Section 26.0135, Water Code,
6 as amended by Chapters 234 and 965, Acts of the 77th Legislature,
7 Regular Session, 2001, is reenacted and amended to read as follows:

8 (h) The commission shall apportion, assess, and recover the
9 reasonable costs of administering the water quality management
10 programs under this section from users of water and wastewater
11 permit holders in the watershed according to the records of the
12 commission generally in proportion to their right, through permit
13 or contract, to use water from and discharge wastewater in the
14 watershed. Irrigation water rights, ~~and~~ non-priority
15 hydroelectric rights of a water right holder that owns or operates
16 privately owned facilities that collectively have a capacity of
17 less than two megawatts, and water rights held in the Texas Water
18 Trust for terms of at least 20 years will not be subject to this
19 assessment. The cost to river authorities and others to conduct
20 water quality monitoring and assessment shall be subject to prior
21 review and approval by the commission as to methods of allocation
22 and total amount to be recovered. The commission shall adopt rules
23 to supervise and implement the water quality monitoring,
24 assessment, and associated costs. The rules shall ensure that
25 water users and wastewater dischargers do not pay excessive
26 amounts, that program funds are equitably apportioned among basins,
27 that a river authority may recover no more than the actual costs of

1 administering the water quality management programs called for in
2 this section, and that no municipality shall be assessed cost for
3 any efforts that duplicate water quality management activities
4 described in Section 26.177 [~~of this chapter~~]. The rules
5 concerning the apportionment and assessment of reasonable costs
6 shall provide for a recovery of not more than \$5,000,000 annually.
7 Costs recovered by the commission are to be deposited to the credit
8 of the water resource management account and may be used only to
9 accomplish the purposes of this section. The commission may apply
10 not more than 10 percent of the costs recovered annually toward the
11 commission's overhead costs for the administration of this section
12 and the implementation of regional water quality assessments. The
13 commission, with the assistance and input of each river authority,
14 shall file a written report accounting for the costs recovered
15 under this section with the governor, the lieutenant governor, and
16 the speaker of the house of representatives on or before December 1
17 of each even-numbered year.

18 SECTION 1.25. Subsection (b), Section 11.1491, Water Code,
19 is repealed.

20 SECTION 1.26. (a) The governor, lieutenant governor, and
21 speaker of the house of representatives shall appoint the initial
22 members of the environmental flows advisory group as provided by
23 Section 11.0236, Water Code, as added by this article, as soon as
24 practicable on or after the effective date of this Act.

25 (b) As soon as practicable after taking office, the initial
26 members of the environmental flows advisory group shall appoint the
27 initial members of the Texas environmental flows science advisory

1 committee as provided by Section 11.02361, Water Code, as added by
2 this article. The terms of the initial members of the committee
3 expire March 1, 2012.

4 (c) The environmental flows advisory group shall appoint
5 the members of each basin and bay area stakeholders committee as
6 provided by Section 11.02362, Water Code, as added by this article.
7 The terms of the initial members of each committee expire March 1 of
8 the fifth year that begins after the year in which the initial
9 appointments are made.

10 (d) Each basin and bay area stakeholders committee shall
11 appoint the members of the basin and bay expert science team for the
12 river basin and bay system for which the committee is established as
13 provided by Section 11.02362, Water Code, as added by this article.
14 The terms of the initial members of each team expire April 1 of the
15 fifth year that begins after the year in which the initial
16 appointments are made.

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

26 SECTION 1.27. The changes in law made by this article
27 relating to a permit for a new appropriation of water or to an

1 amendment to an existing water right that increases the amount of
2 water authorized to be stored, taken, or diverted apply only to:

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

7 (2) the increase in the amount of water authorized to
8 be stored, taken, or diverted under an amendment to an existing
9 water right that increases the amount of water authorized to be
10 stored, taken, or diverted and the application for which is pending
11 with the Texas Commission on Environmental Quality on the effective
12 date of this Act or is filed with the commission on or after that
13 date.

14 ARTICLE 2. WATER CONSERVATION AND PLANNING

15 SECTION 2.01. Section 1.003, Water Code, is amended to read
16 as follows:

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

20 (1) the control, storage, preservation, and
21 distribution of the state's storm and floodwaters and the waters of
22 its rivers and streams for irrigation, power, and other useful
23 purposes;

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

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

1 (4) the conservation and development of its forest,
2 water, and hydroelectric power;

3 (5) the navigation of the state's inland and coastal
4 waters; ~~and~~

5 (6) the maintenance of a proper ecological environment
6 of the bays and estuaries of Texas and the health of related living
7 marine resources; and

8 (7) the voluntary stewardship of public and private
9 lands to benefit waters of the state.

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

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

13 (a) The legislature finds that voluntary land stewardship
14 enhances the efficiency and effectiveness of this state's
15 watersheds by helping to increase surface water and groundwater
16 supplies, resulting in a benefit to the natural resources of this
17 state and to the general public. It is therefore the policy of this
18 state to encourage voluntary land stewardship as a significant
19 water management tool.

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

1 all of which benefit the water resources of this state.

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

4 (20) "Best management practices" means those
5 voluntary efficiency measures developed by the commission and the
6 board that save a quantifiable amount of water, either directly or
7 indirectly, and that can be implemented within a specified time
8 frame.

9 SECTION 2.04. Subchapter E, Chapter 13, Water Code, is
10 amended by adding Section 13.146 to read as follows:

11 Sec. 13.146. WATER CONSERVATION PLAN. The commission shall
12 require a retail public utility that provides potable water service
13 to 3,300 or more connections to submit to the executive
14 administrator of the board a water conservation plan based on
15 specific targets and goals developed by the retail public utility
16 and using appropriate best management practices, as defined by
17 Section 11.002, or other water conservation strategies.

18 SECTION 2.05. Subsection (b), Section 15.102, Water Code,
19 is amended to read as follows:

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

21 (1) grants or loans for projects that include
22 supplying water and wastewater services in economically distressed
23 areas or nonborder colonias as provided by legislative
24 appropriations, this chapter, and board rules, including projects
25 involving retail distribution of those services; and

26 (2) grants for:

27 (A) projects for which federal grant funds are

1 placed in the loan fund;

2 (B) projects, on specific legislative
3 appropriation for those projects; or

4 (C) water conservation, desalination, brush
5 control, weather modification, regionalization, and projects
6 providing regional water quality enhancement services as defined by
7 board rule, including regional conveyance systems.

8 SECTION 2.06. Subchapter Q, Chapter 15, Water Code, is
9 amended by adding Section 15.9751 to read as follows:

10 Sec. 15.9751. PRIORITY FOR WATER CONSERVATION. The board
11 shall give priority to applications for funds for the
12 implementation of water supply projects in the state water plan by
13 entities that:

14 (1) have already demonstrated significant water
15 conservation savings; or

16 (2) will achieve significant water conservation
17 savings by implementing the proposed project for which the
18 financial assistance is sought.

19 SECTION 2.07. Section 16.051, Water Code, is amended by
20 adding Subsections (i), (j), and (k) to read as follows:

21 (i) A cause of action may not be brought under Subsection
22 (h) for a violation of Subsection (g), if a political subdivision
23 obtained fee title or an easement for the purpose of:

24 (1) providing retail public utility service to
25 property within the site; or

26 (2) allowing an owner of property within the reservoir
27 site to improve or develop the property.

1 (j) A person may not bring a cause of action under
2 Subsection (h) for a violation of Subsection (g) if the political
3 subdivision that violated that subsection acquired the fee title or
4 easement for the purpose of:

5 (1) providing retail public utility service, other
6 than water or wastewater service, to property in the reservoir
7 site; or

8 (2) allowing an owner of property in the reservoir
9 site to improve or develop the property.

10 (k) Notwithstanding Subsection (j), a political subdivision
11 affected by an action described by Subsection (j) may bring a cause
12 of action for a violation of Subsection (g) if the political
13 subdivision has complied with Section 16.143(a).

14 SECTION 2.08. Subsection (h), Section 16.053, Water Code,
15 is amended by adding Subdivisions (10) and (11) to read as follows:

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

20 (11) This subdivision applies only to an amendment to
21 a regional water plan approved by the board. This subdivision does
22 not apply to the adoption of a subsequent regional water plan for
23 submission to the board as required by Subsection (i).
24 Notwithstanding Subdivision (10), the regional water planning
25 group may amend the plan in the manner provided by this subdivision
26 if the executive administrator makes a written determination that
27 the proposed amendment qualifies for adoption in the manner

1 provided by this subdivision before the regional water planning
2 group votes on adoption of the amendment. A proposed amendment
3 qualifies for adoption in the manner provided by this subdivision
4 only if the amendment is a minor amendment, as defined by board
5 rules, that will not result in the overallocation of any existing or
6 planned source of water, does not relate to a new reservoir, and
7 will not have a significant effect on instream flows or freshwater
8 inflows to bays and estuaries. If the executive administrator
9 determines that a proposed amendment qualifies for adoption in the
10 manner provided by this subdivision, the regional water planning
11 group may adopt the amendment at a public meeting held in accordance
12 with Chapter 551, Government Code. The proposed amendment must be
13 placed on the agenda for the meeting, and notice of the meeting must
14 be given in the manner provided by Chapter 551, Government Code, at
15 least two weeks before the date the meeting is held. The public
16 must be provided an opportunity to comment on the proposed
17 amendment at the meeting.

18 SECTION 2.09. Subsection (r), Section 16.053, Water Code,
19 as added by Chapter 1097, Acts of the 79th Legislature, Regular
20 Session, 2005, is amended to read as follows:

21 (r) The board by rule shall provide for reasonable
22 flexibility to allow for a timely amendment of a regional water
23 plan, the board's approval of an amended regional water plan, and
24 the amendment of the state water plan. If an amendment under this
25 subsection is[~~r~~] to facilitate planning for water supplies
26 reasonably required for a clean coal project, as defined by Section
27 5.001, the[~~. The~~] rules may allow for amending a regional water

1 plan without providing notice and without a public meeting or
2 hearing under Subsection (h) if the amendment does not:

3 (1) significantly change the regional water plan, as
4 reasonably determined by the board; or

5 (2) adversely affect other water management
6 strategies in the regional water plan.

7 SECTION 2.10. Subchapter E, Chapter 16, Water Code, is
8 amended by adding Section 16.1311 to read as follows:

9 Sec. 16.1311. PRIORITY FOR WATER CONSERVATION. The board
10 shall give priority to applications for funds for implementation of
11 water supply projects in the state water plan by entities that:

12 (1) have already demonstrated significant water
13 conservation savings; or

14 (2) will achieve significant water conservation
15 savings by implementing the proposed project for which the
16 financial assistance is sought.

17 SECTION 2.11. Sections 16.315 and 16.319, Water Code, are
18 amended to read as follows:

19 Sec. 16.315. POLITICAL SUBDIVISIONS; COMPLIANCE WITH
20 FEDERAL REQUIREMENTS. All political subdivisions are hereby
21 authorized to take all necessary and reasonable actions that are
22 not less stringent than [~~to comply with~~] the requirements and
23 criteria of the National Flood Insurance Program, including but not
24 limited to:

25 (1) making appropriate land use adjustments to
26 constrict the development of land which is exposed to flood damage
27 and minimize damage caused by flood losses;

1 (2) guiding the development of proposed future
2 construction, where practicable, away from a location which is
3 threatened by flood hazards;

4 (3) assisting in minimizing damage caused by floods;

5 (4) authorizing and engaging in continuing studies of
6 flood hazards in order to facilitate a constant reappraisal of the
7 flood insurance program and its effect on land use requirements;

8 (5) engaging in floodplain management, ~~and~~ adopting
9 and enforcing permanent land use and control measures that are not
10 less stringent than those ~~[consistent with the criteria]~~
11 established under the National Flood Insurance Act, and providing
12 for the imposition of penalties on landowners who violate this
13 subchapter or rules adopted or orders issued under this subchapter;

14 (6) declaring property, when such is the case, to be in
15 violation of local laws, regulations, or ordinances which are
16 intended to discourage or otherwise restrict land development or
17 occupancy in flood-prone areas and notifying the director, or
18 whomever the director designates, of such property;

19 (7) consulting with, giving information to, and
20 entering into agreements with the Federal Emergency Management
21 Agency for the purpose of:

22 (A) identifying and publishing information with
23 respect to all flood areas, including coastal areas; and

24 (B) establishing flood-risk zones in all such
25 areas and making estimates with respect to the rates of probable
26 flood-caused loss for the various flood-risk zones for each of
27 these areas;

1 (8) cooperating with the director's studies and
2 investigations with respect to the adequacy of local measures in
3 flood-prone areas as to land management and use, flood control,
4 flood zoning, and flood damage prevention;

5 (9) taking steps, using regional, watershed, and
6 multi-objective approaches, to improve the long-range management
7 and use of flood-prone areas;

8 (10) purchasing, leasing, and receiving property from
9 the director when such property is owned by the federal government
10 and lies within the boundaries of the political subdivision
11 pursuant to agreements with the Federal Emergency Management Agency
12 or other appropriate legal representative of the United States
13 Government;

14 (11) requesting aid pursuant to the entire
15 authorization from the commission;

16 (12) satisfying criteria adopted and promulgated by
17 the commission pursuant to the National Flood Insurance Program;

18 (13) adopting permanent land use and control measures
19 with enforcement provisions that are not less stringent than ~~[which~~
20 ~~are consistent with]~~ the criteria for land management and use
21 adopted by the director;

22 (14) adopting more comprehensive floodplain
23 management rules that the political subdivision determines are
24 necessary for planning and appropriate to protect public health and
25 safety;

26 (15) participating in floodplain management and
27 mitigation initiatives such as the National Flood Insurance

1 Program's Community Rating System, Project Impact, or other
2 initiatives developed by federal, state, or local government; and

3 (16) collecting reasonable fees to cover the cost of
4 administering a local floodplain management program.

5 Sec. 16.319. QUALIFICATION. Political subdivisions
6 wishing to qualify under the National Flood Insurance Program shall
7 have the authority to do so by complying with the directions of the
8 Federal Emergency Management Agency and by:

9 (1) evidencing to the director a positive interest in
10 securing flood insurance coverage under the National Flood
11 Insurance Program; and

12 (2) giving to the director satisfactory assurance that
13 measures will have been adopted for the political subdivision that
14 ~~[which measures]~~ will be not less stringent than ~~[consistent with]~~
15 the comprehensive criteria for land management and use developed by
16 the Federal Emergency Management Agency.

17 SECTION 2.12. Chapter 16, Water Code, is amended by adding
18 Subchapter K to read as follows:

19 SUBCHAPTER K. WATER CONSERVATION

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

1 (b) The executive administrator is required to develop and
2 implement the program required by Subsection (a) in a state fiscal
3 biennium only if the legislature appropriates sufficient money in
4 that biennium specifically for that purpose.

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

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

13 (c) The executive administrator shall review each water
14 conservation plan and annual report to determine compliance with
15 the minimum requirements established by Section 11.1271 and the
16 submission deadlines developed under Subsection (e) of this
17 section.

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

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

27 (1) identifying the minimum requirements and

1 submission deadlines for the annual reports required by Subsection
2 (b); and

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

5 SECTION 2.13. Section 17.125, Water Code, is amended by
6 adding Subsection (b-2) to read as follows:

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

10 (1) have already demonstrated significant water
11 conservation savings; or

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

15 SECTION 2.14. Chapter 35, Water Code, is amended by adding
16 Section 35.020 to read as follows:

17 Sec. 35.020. PUBLIC PARTICIPATION IN GROUNDWATER MANAGEMENT
18 PROCESS. It is the policy of the state to encourage public
19 participation in the groundwater management process in areas within
20 a groundwater management area not represented by a groundwater
21 conservation district.

22 SECTION 2.15. Subsection (b), Section 212.0101, Local
23 Government Code, is amended to read as follows:

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

1 SECTION 2.16. Subsection (b), Section 232.0032, Local
2 Government Code, is amended to read as follows:

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

7 SECTION 2.17. (a) In this section, "board" means the Texas
8 Water Development Board.

9 (b) The board, in coordination with the Far West Texas
10 Regional Water Planning Group established pursuant to Section
11 16.053, Water Code, shall conduct a study regarding the possible
12 impact of climate change on surface water supplies from the Rio
13 Grande.

14 (c) In conducting the study, the board shall convene a
15 conference within the Far West Texas regional water planning area
16 designated pursuant to Section 16.053, Water Code, to review:

17 (1) any analysis conducted by a state located to the
18 west of this state regarding the impact of climate change on surface
19 water supplies in that state;

20 (2) any other current analysis of potential impacts of
21 climate change on surface water resources; and

22 (3) recommendations for incorporation of potential
23 impacts of climate change into the Far West Texas Regional Water
24 Plan, including potential impacts to the Rio Grande in Texas
25 subject to the Rio Grande Compact and identification of feasible
26 water management strategies to offset any potential impacts.

27 (d) The conference should include, but not be limited to,

1 the participation of representatives of:

- 2 (1) the Far West Texas Regional Water Planning Group;
- 3 (2) water authorities;
- 4 (3) industrial customers;
- 5 (4) agricultural interests;
- 6 (5) municipalities;
- 7 (6) fishing or recreational interests;
- 8 (7) environmental advocacy organizations; and
- 9 (8) institutions of higher education.

10 (e) Not later than December 31, 2008, the board shall submit
11 to the legislature a written report regarding the study findings
12 under this section.

13 SECTION 2.18. (a) Chapter 9, Water Code, is repealed.

14 (b) The Texas Water Advisory Council is abolished on the
15 effective date of this article.

16 SECTION 2.19. Sections 15.102 and 17.125, Water Code, as
17 amended by this article, and Sections 15.9751 and 16.1311, Water
18 Code, as added by this article, apply only to an application for
19 financial assistance filed with the Texas Water Development Board
20 on or after the effective date of this article. An application for
21 financial assistance filed before the effective date of this
22 article is governed by the law in effect on the date the application
23 was filed, and the former law is continued in effect for that
24 purpose.

25 ARTICLE 2A. CONSTRUCTION AND OPERATION OF RESERVOIRS

26 SECTION 2A.01. Chapter 11, Water Code, is amended by adding
27 Subchapter L to read as follows:

1 SUBCHAPTER L. SURCHARGE ON IMPOUNDED SURFACE WATER

2 Sec. 11.601. SURCHARGE ON SURFACE WATER IMPOUNDED IN A
3 RESERVOIR. (a) The holder of a permit to impound surface water in a
4 reservoir shall, on an annual basis, pay a surcharge fee to each
5 political subdivision that assessed ad valorem taxes on property
6 within the reservoir site. The surcharge shall be equal to the ad
7 valorem tax revenue the political subdivision received from the
8 property within the reservoir site at the time the property was
9 acquired for the reservoir.

10 (b) The permit holder shall pay the surcharge for a period
11 of 10 years after the date the property was acquired by fee title
12 for the reservoir.

13 SECTION 2A.02. Subchapter E, Chapter 16, Water Code, is
14 amended by adding Sections 16.143 through 16.146 to read as
15 follows:

16 Sec. 16.143. INTENT TO CONSTRUCT RESERVOIR; ENCUMBRANCE
17 PAYMENT. (a) Before bringing a cause of action under Section
18 16.051(h), a political subdivision must:

19 (1) file with the commission a letter of intent to
20 construct a reservoir on the site affected by the violation of
21 Section 16.051(g); and

22 (2) offer to pay each owner of real property in the
23 reservoir site an encumbrance payment.

24 (b) An owner of real property to whom an encumbrance payment
25 is offered may reject the offer.

26 (c) An encumbrance payment must be paid annually to an owner
27 of real property in the reservoir site who has accepted the offer of

1 the payment until:

2 (1) the property is acquired for the reservoir; or

3 (2) the property is no longer in the reservoir site.

4 (d) An encumbrance payment must be in an amount that is not
5 less than 2.5 times the total amount of ad valorem taxes imposed in
6 the tax year that precedes the year in which the payment is made on
7 the property for which the payment is made.

8 Sec. 16.144. ELIGIBILITY TO PARTICIPATE IN GOVERNMENT
9 PROGRAMS. Property located in the site of a reservoir designated
10 under Section 16.051 continues to be eligible for any public
11 program for which it was eligible before the designation. A state
12 agency or political subdivision may not consider the fact that the
13 property is included in a site that has been designated as being of
14 unique value for the construction of a reservoir when determining
15 the property's eligibility to participate in a public program whose
16 term is not longer than the period before physical construction of
17 the reservoir will begin.

18 Sec. 16.145. OPTION TO LEASE. (a) A former owner of real
19 property utilized for agriculture purposes that was acquired,
20 voluntarily or through the exercise of the power of eminent domain,
21 for a reservoir whose site has been designated as unique for the
22 construction of a reservoir pursuant to Section 16.051(g) of this
23 chapter is entitled to lease the property from the person who
24 acquired the property under terms that allow the former owner to
25 continue to use the property for agricultural purposes until the
26 person who acquired the property determines that such use must be
27 terminated to allow for the physical construction of the reservoir.

1 Consistent with the provisions of Subsection (b) of this section,
2 such lease shall be the subject of terms and conditions related to
3 the use of the property by the former owner, including but not
4 limited to the term of the lease, the price the former owner shall
5 be required to pay for the lease, and the uses that may be allowed on
6 the property during the term of the lease.

7 (b) A former owner of real property used for agricultural
8 purposes is entitled to lease the property for the property's
9 agricultural rental value.

10 Sec. 16.146. ENVIRONMENTAL MITIGATION. (a) If a person
11 proposing to construct a reservoir whose site has been designated
12 as unique for the construction of a reservoir pursuant to Section
13 16.051(g) of this chapter is required to mitigate future adverse
14 environmental effects arising from the construction or operation of
15 the reservoir or its related facilities, the person shall, if
16 authorized by the applicable regulatory authority, attempt to
17 mitigate such effects by offering to contract with and pay an amount
18 of money to an owner of real property located outside of the
19 reservoir site to maintain the property through an easement instead
20 of acquiring the fee simple title to the property for that purpose.

21 (b) An owner of real property may reject an offer made under
22 Subsection (a).

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

25 SECTION 3.01. LEGISLATIVE FINDINGS. The legislature finds
26 that:

- 27 (1) the development of new water supplies to meet the

1 growing demand for water is necessary for the sound economic
2 development of this state and is of concern and importance to this
3 state;

4 (2) feasible sites for new reservoirs are identified
5 as having unique value in the 2006 regional water plans and the 2007
6 state water plan;

7 (3) most of the proposed reservoirs are also part of
8 recommended strategies for fulfilling identified needs in the 2007
9 state water plan that may occur as early as 2010 and 2020;

10 (4) it is necessary to preempt actions that could
11 circumvent the state's primacy over surface water in the state; and

12 (5) designation of these sites as unique reservoir
13 sites or river or stream segments of unique ecological value is
14 necessary for the sound economic development of this state, for the
15 protection of natural resources, and for the purpose of promoting
16 the public health, safety, and general welfare of this state.

17 SECTION 3.02. DESIGNATION OF UNIQUE RESERVOIR SITES. The
18 legislature, as authorized by Subsection (g), Section 16.051, Water
19 Code, designates the following sites as having unique value for the
20 construction of a dam and reservoir and further determines that the
21 sites are necessary to meet water supply needs:

22 (1) Lower Bois d'Arc reservoir, to be located on Bois
23 d'Arc Creek in Fannin County, upstream from the Caddo National
24 Grasslands Wildlife Management Area;

25 (2) Lake Ralph Hall reservoir, to be located on the
26 North Sulphur River in southeast Fannin County, north of the city of
27 Ladonia;

1 (3) Tehuacana Creek reservoir, to be located on
2 Tehuacana Creek in Freestone County, south of the Richland-Chambers
3 reservoir, with the two lakes to be connected by a channel;

4 (4) Bédias reservoir, to be located on both Bédias and
5 Caney Creeks in portions of Grimes, Madison, and Walker Counties;

6 (5) Brushy Creek reservoir, to be located near the
7 city of Marlin in central Falls County;

8 (6) Texana Stage II reservoir, also known as Palmetto
9 Bend, to be located on the Lavaca River in Jackson County above the
10 confluence with the Navidad River;

11 (7) Goldthwaite channel dam reservoir, to be located
12 on the Colorado River west of the city of Goldthwaite and downstream
13 from the existing diversion structure;

14 (8) Wheeler Branch off-channel reservoir, to be
15 located on the Wheeler Branch tributary of the Paluxy River and
16 north of the city of Glen Rose in Somervell County;

17 (9) Cedar Ridge reservoir, to be located on the Clear
18 Fork of the Brazos River upstream from its confluence with Paint
19 Creek and in Throckmorton, Shackelford, and Haskell Counties;

20 (10) Lake 07 reservoir, to be located in southeastern
21 Lubbock County, to impound developed water resources discharged
22 into Yellowhouse Canyon as part of the Canyon Lakes System, also
23 known as the Jim Bertram Lake System;

24 (11) Lake 08 reservoir, to be located in southeastern
25 Lubbock County, to impound developed water resources discharged
26 into Yellowhouse Canyon as part of the Canyon Lakes System, also
27 known as the Jim Bertram Lake System;

1 (12) Nueces off-channel reservoir, to be located west
2 of Lake Corpus Christi in south central Live Oak County, to be
3 linked to Lake Corpus Christi by pipeline and operated as part of
4 the Choke Canyon-Lake Corpus Christi reservoir system;

5 (13) Ringgold reservoir, to be located on the Little
6 Wichita River in Clay County approximately one-half mile upstream
7 from its confluence with the Red River;

8 (14) Muenster reservoir, to be located on Brushy Elm
9 Creek in western Cooke County; and

10 (15) Brownsville Weir and reservoir, to be located on
11 the lower Rio Grande in Cameron County; the proposed project
12 consists of a weir structure across the channel of the river
13 approximately eight miles downstream from the city of Brownsville.

14 SECTION 3.03. DESIGNATION OF SITES OF UNIQUE ECOLOGICAL
15 VALUE. The legislature, as authorized by Subsection (f), Section
16 16.051, Water Code, designates those river or stream segment sites
17 recommended in the 2007 state water plan as being of unique
18 ecological value.

19 SECTION 3.04. RESTRICTION ON ELIGIBILITY TO HOLD WATER
20 RIGHTS; LIABILITY FOR CONSTRUCTION, OPERATION, AND MAINTENANCE
21 COSTS. (a) This section applies only to a proposed reservoir
22 listed in Subdivision (3), Section 3.02 of this Act, that is to be
23 located in the Region D Regional Water Planning Area.

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

1 located.

2 (c) If one or more entities located outside the regional
3 water planning area in which a proposed reservoir is to be located
4 are to hold the right to appropriate a majority of the quantity of
5 water that is authorized to be appropriated from the reservoir,
6 that entity or those entities must pay all of the costs of
7 constructing, operating, and maintaining the reservoir until such
8 time as one or more entities located in the regional water planning
9 area in which the reservoir is to be located begins diverting water.
10 At such time, the entity or entities making a diversion shall pay a
11 pro-rata share of the cost of operating and maintaining the
12 reservoir.

13 SECTION 3.05. STUDY COMMISSION ON REGION C WATER SUPPLY.

14 (a) The Study Commission on Region C Water Supply is established.
15 The study commission consists of six members as follows:

16 (1) three members appointed by the Region C Regional
17 Water Planning Group; and

18 (2) three members appointed by the Region D Regional
19 Water Planning Group.

20 (b) A member of the study commission may be, but is not
21 required to be, a voting member of the regional water planning group
22 that appointed the member.

23 (c) The members of the study commission shall select a
24 presiding officer from among the members.

25 (d) Members of the study commission are not entitled to
26 compensation for service on the study commission but may be
27 reimbursed for travel expenses incurred while conducting the

1 business of the study commission, as provided for in the General
2 Appropriations Act.

3 (e) The study commission shall:

4 (1) review the water supply alternatives available to
5 the Region C Regional Water Planning Area, including obtaining
6 additional water supply from Wright Patman Lake, Toledo Bend
7 Reservoir, Lake Texoma, Lake o' the Pines, and other existing and
8 proposed reservoirs;

9 (2) in connection with the review under Subdivision
10 (1) of this subsection, analyze the socioeconomic effect on the
11 area where the water supply is located that would result from the
12 use of the water to meet the water needs of the Region C Regional
13 Water Planning Area, including:

14 (A) the effects on landowners, agricultural and
15 natural resources, businesses, industries, and taxing entities of
16 different water management strategies; and

17 (B) in connection with the use by the Region C
18 Regional Water Planning Area of water from Wright Patman Lake, the
19 effect on water availability in that lake and the effect on
20 industries relying on that water availability;

21 (3) determine whether water demand in the Region C
22 Regional Water Planning Area may be reduced through additional
23 conservation and reuse measures so as to postpone the need for
24 additional water supplies;

25 (4) evaluate measures that would need to be taken to
26 comply with the mitigation requirements of the United States Army
27 Corps of Engineers in connection with any proposed new reservoirs,

1 including identifying potential mitigation sites;

2 (5) consider whether the mitigation burden described
3 by Subdivision (4) of this subsection may be shared by the Regions C
4 and D Regional Water Planning Areas in proportion to the allocation
5 to each region of water in any proposed reservoir;

6 (6) review innovative methods of compensation to
7 affected property owners, including royalties for water stored on
8 acquired properties and annual payments to landowners for
9 properties acquired for the construction of a reservoir to satisfy
10 future water management strategies;

11 (7) evaluate the minimum number of surface acres
12 required for the construction of proposed reservoirs in order to
13 develop adequate water supply; and

14 (8) identify the locations of proposed reservoir sites
15 in the Regions C and D Regional Water Planning Areas using satellite
16 imagery with sufficient resolution to permit land ownership to be
17 determined.

18 (f) The study commission may not be assisted by any person
19 that is a party to or is employed by a party to a contract to perform
20 engineering work with respect to site selection, permitting,
21 design, or construction of the proposed Marvin Nichols reservoir.

22 (g) The Texas Water Development Board, on request of the
23 study commission, may provide staff support or other assistance
24 necessary to enable the study commission to carry out its duties.
25 The Texas Water Development Board shall provide funding for the
26 study commission, including funding of any studies conducted by the
27 study commission, from the regional planning budget of the board.

1 (h) Not later than December 1, 2010, the study commission
2 shall deliver a report to the governor, lieutenant governor, and
3 speaker of the house of representatives that includes:

- 4 (1) any studies completed by the study commission;
5 (2) any legislation proposed by the study commission;
6 (3) a recommendation as to whether Marvin Nichols
7 should be a designated reservoir site; and
8 (4) other findings and recommendations of the study
9 commission.

10 (i) The study commission is abolished and this section
11 expires December 31, 2011.

12 SECTION 3.06. EFFECTIVE DATE. This article takes effect
13 immediately if this Act receives a vote of two-thirds of all the
14 members elected to each house, as provided by Section 39, Article
15 III, Texas Constitution. If this Act does not receive the vote
16 necessary for immediate effect, this article takes effect September
17 1, 2007.

18 ARTICLE 4. LEGISLATIVE JOINT INTERIM COMMITTEE

19 SECTION 4.01. (a) In this section, "committee" means the
20 joint interim committee on state water funding.

21 (b) The committee is composed of eight members as follows:

22 (1) the chair of the Senate Committee on Natural
23 Resources and the chair of the House Committee on Natural Resources
24 who shall serve as joint chairs of the committee;

25 (2) three members of the senate appointed by the
26 lieutenant governor; and

27 (3) three members of the house of representatives

1 appointed by the speaker of the house of representatives.

2 (c) An appointed member of the committee serves at the
3 pleasure of the appointing official.

4 (d) The committee shall meet at least annually with the
5 executive director of the Texas Commission on Environmental Quality
6 and the executive administrator of the Texas Water Development
7 Board to:

8 (1) receive information on water infrastructure needs
9 as identified in the state water plan;

10 (2) receive information on infrastructure cost and
11 funding options to be used by local entities to meet the needs
12 identified in the state water plan;

13 (3) receive analyses of the funding gap and
14 recommendations on how to address those funding needs;

15 (4) receive information on whether all water fees
16 assessed are sufficient to support the required regulatory
17 water-related state program functions and activities; and

18 (5) identify viable, sustainable, dedicated revenues
19 and fee sources, or increases to existing revenue and fees, to
20 support state water programs and to provide for natural resources
21 data collection and dissemination, financial assistance programs,
22 and water resources planning, including funding to implement water
23 management strategies in the state water plan.

24 (e) The committee may hold hearings and may request reports
25 and other information from state agencies as necessary to carry out
26 this section.

27 (f) The Senate Committee on Natural Resources and the House

1 Committee on Natural Resources shall provide staff necessary for
2 the committee to fulfill its duties.

3 (g) Not later than December 1, 2008, the committee shall
4 report to the governor, the lieutenant governor, and the speaker of
5 the house of representatives on the committee's activities under
6 Subsection (d) of this section. The report shall include
7 recommendations of any legislative action necessary to address
8 funding needs to support the state's water programs and water
9 infrastructure needs.

10 ARTICLE 5. EFFECTIVE DATE

11 SECTION 5.01. Except as otherwise provided by this Act,
12 this Act takes effect September 1, 2007.