

SENATE AMENDMENTS

2nd Printing

By: Puente, Hilderbran

H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. 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 2. 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~~
~~section~~]. The commission shall give the Parks and Wildlife

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (3) mining and recovery of minerals;

23 (4) hydroelectric power;

24 (5) navigation;

25 (6) recreation and pleasure;

26 (7) public parks; and

27 (8) game preserves.

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

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

15 (d-1) The legislature has determined that existing water
16 rights that are converted to water rights for environmental
17 purposes should be enforced in a manner consistent with the
18 enforcement of water rights for other purposes as provided by the
19 laws of this state governing the appropriation of state water.

20 (d-2) The legislature finds that to provide certainty in
21 water management and development and to provide adequate protection
22 of the state's streams, rivers, and bays and estuaries, the state
23 must have a process with specific timelines for prompt action to
24 address environmental flow issues in the state's major basin and
25 bay systems, especially those systems in which unappropriated water
26 is still available.

27 (d-3) The legislature finds that:

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

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

11 (d-4) The legislature finds that while the state has
12 pioneered tools to address freshwater inflow needs for bays and
13 estuaries, there are limitations to those tools in light of both
14 scientific and public policy evolution. To fully address bay and
15 estuary environmental flow issues, the foundation of work
16 accomplished by the state should be improved. While the state's
17 instream flow studies program appears to encompass a comprehensive
18 and scientific approach for establishing a process to assess
19 instream flow needs for rivers and streams across the state, more
20 extensive review and examination of the details of the program,
21 which may not be fully developed until the program is under way, are
22 needed to ensure an effective tool for evaluating riverine
23 environmental flow conditions.

24 (d-5) The legislature finds that the management of water to
25 meet instream flow and freshwater inflow needs should be evaluated
26 on a regular basis and adapted to reflect both improvements in
27 science related to environmental flows and future changes in

1 projected human needs for water. In addition, the development of
2 management strategies for addressing environmental flow needs
3 should be an ongoing, adaptive process that considers and addresses
4 local issues.

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

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

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

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

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

6 (b) The advisory group is composed of nine members as
7 follows:

8 (1) three members appointed by the governor;

9 (2) three members of the senate appointed by the
10 lieutenant governor; and

11 (3) three members of the house of representatives
12 appointed by the speaker of the house of representatives.

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

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

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

16 (3) one member must be a member of the Parks and
17 Wildlife Commission.

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

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

23 (f) A member of the advisory group is not entitled to
24 receive compensation for service on the advisory group but is
25 entitled to reimbursement of the travel expenses incurred by the
26 member while conducting the business of the advisory group, as
27 provided by the General Appropriations Act.

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

3 (h) The commission shall provide staff support for the
4 advisory group.

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

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

24 (2) appropriate methods to encourage persons
25 voluntarily to convert reasonable amounts of existing water rights
26 to use for environmental flow protection temporarily or
27 permanently.

1 (j) The advisory group may adopt rules, procedures, and
2 policies as needed to administer this section, to implement its
3 responsibilities, and to exercise its authority under Sections
4 11.02361 and 11.02362.

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

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

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

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

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

14 (4) progress made in implementing Sections 11.02361
15 and 11.02362; and

16 (5) any other findings and recommendations of the
17 advisory group.

18 (m) The advisory group is abolished on the date that the
19 commission has adopted environmental flow standards under Section
20 11.1471 for all of the river basin and bay systems in this state.

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

25 (b) The advisory group shall appoint to the science advisory
26 committee persons who will provide an objective perspective and
27 diverse technical expertise, including expertise in hydrology,

1 hydraulics, water resources, aquatic and terrestrial biology,
2 geomorphology, geology, water quality, computer modeling, and
3 other technical areas pertinent to the evaluation of environmental
4 flows.

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

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

11 (e) The science advisory committee shall:

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

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

17 (A) environmental flow methodologies for bay and
18 estuary studies and instream flow studies;

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

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

23 (f) To assist the advisory group to assess the extent to
24 which the recommendations of the science advisory committee are
25 considered and implemented, the commission, the Parks and Wildlife
26 Department, and the board shall provide written reports to the
27 advisory group, at intervals determined by the advisory group, that

1 describe:

2 (1) the actions taken by each agency in response to
3 each recommendation; and

4 (2) for each recommendation not implemented, the
5 reason it was not implemented.

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

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

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

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

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

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

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

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

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

13 (3) the basin and bay expert science team shall
14 finalize environmental flow regime recommendations and submit them
15 to the basin and bay area stakeholders committee, the advisory
16 group, and the commission not later than March 1, 2009, except that
17 at the request of the basin and bay area stakeholders committee for
18 good cause shown, the advisory group may extend the deadline
19 provided by this subdivision;

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

24 (5) the commission shall adopt the environmental flow
25 standards as provided by Section 11.1471 not later than September
26 1, 2010.

27 (d) The advisory group shall appoint the basin and bay area

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

21 (e) For a river basin and bay system or a river basin that
22 does not have an associated bay system in this state not listed in
23 Subsection (b), the advisory group shall establish a schedule for
24 the development of environmental flow regime recommendations and
25 the adoption of environmental flow standards. The advisory group
26 shall develop the schedule in consultation with the commission, the
27 Parks and Wildlife Department, the board, and the pertinent basin

1 and bay area stakeholders committee and basin and bay expert
2 science team. The advisory group may, on its own initiative or on
3 request, modify a schedule established under this subsection to be
4 more responsive to particular circumstances, local desires,
5 changing conditions, or time-sensitive conflicts. This subsection
6 does not prohibit, in a river basin and bay system for which the
7 advisory group has not yet established a schedule for the
8 development of environmental flow regime recommendations and the
9 adoption of environmental flow standards, an effort to develop
10 information on environmental flow needs and ways in which those
11 needs can be met by a voluntary consensus-building process.

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

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

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

27 (A) agricultural water users;

1 (B) recreational water users, including coastal
2 recreational anglers and businesses supporting water recreation;

3 (C) municipalities;

4 (D) soil and water conservation districts;

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

7 (i) refining;

8 (ii) chemical manufacturing;

9 (iii) electricity generation; and

10 (iv) production of paper products or
11 timber;

12 (F) commercial fishermen;

13 (G) public interest groups;

14 (H) regional water planning groups;

15 (I) groundwater conservation districts;

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

18 (K) environmental interests.

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

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

25 (i) Each basin and bay area stakeholders committee shall
26 establish a basin and bay expert science team for the river basin
27 and bay system for which the committee is established. The basin

1 and bay expert science team must be established not later than six
2 months after the date the basin and bay area stakeholders committee
3 is established. Chapter 2110, Government Code, does not apply to
4 the size, composition, or duration of a basin and bay expert science
5 team. Each basin and bay expert science team must be composed of
6 technical experts with special expertise regarding the river basin
7 and bay system or regarding the development of environmental flow
8 regimes. A person may serve as a member of more than one basin and
9 bay expert science team at the same time.

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

15 (k) The science advisory committee shall appoint one of its
16 members to serve as a liaison to each basin and bay expert science
17 team to facilitate coordination and consistency in environmental
18 flow activities throughout the state. The commission, the Parks
19 and Wildlife Department, and the board shall provide technical
20 assistance to each basin and bay expert science team, including
21 information about the studies conducted under Sections 16.058 and
22 16.059, and may serve as nonvoting members of the basin and bay
23 expert science team to facilitate the development of environmental
24 flow regime recommendations.

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

27 (m) Each basin and bay expert science team shall develop

1 environmental flow analyses and a recommended environmental flow
2 regime for the river basin and bay system for which the team is
3 established through a collaborative process designed to achieve a
4 consensus. In developing the analyses and recommendations, the
5 science team must consider all reasonably available science,
6 without regard to the need for the water for other uses, and the
7 science team's recommendations must be based solely on the best
8 science available. For the Rio Grande below Fort Quitman, any uses
9 attributable to Mexican water flows must be excluded from
10 environmental flow regime recommendations.

11 (n) Each basin and bay expert science team shall submit its
12 environmental flow analyses and environmental flow regime
13 recommendations to the pertinent basin and bay area stakeholders
14 committee, the advisory group, and the commission in accordance
15 with the applicable schedule specified by or established under
16 Subsection (c), (d), or (e). The basin and bay area stakeholders
17 committee and the advisory group may not change the environmental
18 flow analyses or environmental flow regime recommendations of the
19 basin and bay expert science team.

20 (o) Each basin and bay area stakeholders committee shall
21 review the environmental flow analyses and environmental flow
22 regime recommendations submitted by the committee's basin and bay
23 expert science team and shall consider them in conjunction with
24 other factors, including the present and future needs for water for
25 other uses related to water supply planning in the pertinent river
26 basin and bay system. For the Rio Grande, the basin and bay area
27 stakeholders committee shall also consider the water accounting

1 requirements for any international water sharing treaty, minutes,
2 and agreement applicable to the Rio Grande and the effects on
3 allocation of water by the Rio Grande watermaster in the middle and
4 lower Rio Grande. The Rio Grande basin and bay expert science team
5 may not recommend any environmental flow regime that would result
6 in a violation of a treaty or court decision. The basin and bay area
7 stakeholders committee shall develop recommendations regarding
8 environmental flow standards and strategies to meet the
9 environmental flow standards and submit those recommendations to
10 the commission and to the advisory group in accordance with the
11 applicable schedule specified by or established under Subsection
12 (c), (d), or (e). In developing its recommendations, the basin and
13 bay area stakeholders committee shall operate on a consensus basis
14 to the maximum extent possible.

15 (p) In recognition of the importance of adaptive
16 management, after submitting its recommendations regarding
17 environmental flow standards and strategies to meet the
18 environmental flow standards to the commission, each basin and bay
19 area stakeholders committee, with the assistance of the pertinent
20 basin and bay expert science team, shall prepare and submit for
21 approval by the advisory group a work plan. The work plan must:

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

26 (2) prescribe specific monitoring, studies, and
27 activities; and

1 (3) establish a schedule for continuing the validation
2 or refinement of the basin and bay environmental flow analyses and
3 environmental flow regime recommendations, the environmental flow
4 standards adopted by the commission, and the strategies to achieve
5 those standards.

6 (g) In accordance with the applicable schedule specified by
7 or established under Subsection (c), (d), or (e), the advisory
8 group, with input from the science advisory committee, shall review
9 the environmental flow analyses and environmental flow regime
10 recommendations submitted by each basin and bay expert science
11 team. If appropriate, the advisory group shall submit comments on
12 the analyses and recommendations to the commission for use by the
13 commission in adopting rules under Section 11.1471. Comments must
14 be submitted not later than six months after the date of receipt of
15 the analyses and recommendations.

16 (r) Notwithstanding the other provisions of this section,
17 in the event the commission, by permit or order, has established an
18 estuary advisory council with specific duties related to
19 implementation of permit conditions for environmental flows, that
20 council may continue in full force and effect and shall act as and
21 perform the duties of the basin and bay area stakeholders committee
22 under this section. The estuary advisory council shall add members
23 from stakeholder groups and from appropriate science and technical
24 groups, if necessary, to fully meet the criteria for membership
25 established in Subsection (f) and shall operate under the
26 provisions of this section.

27 (s) Each basin and bay area stakeholders committee and basin

1 and bay expert science team is abolished on the date the advisory
2 group is abolished under Section 11.0236(m).

3 Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO
4 ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The commission
5 may not issue a new permit for instream flows dedicated to
6 environmental needs or bay and estuary inflows. The commission may
7 approve an application to amend an existing permit or certificate
8 of adjudication to change the use to or add a use for instream flows
9 dedicated to environmental needs or bay and estuary inflows.

10 (b) This section does not alter the commission's
11 obligations under Section 11.042(b) or (c), 11.046(b),
12 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491,
13 11.150, 11.152, 16.058, or 16.059.

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

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

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

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

26 (1) the rights of a holder of a water right that is
27 held in the Texas Water Trust, including the right to file suit in a

1 civil court to prevent the unlawful use of such a right;

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

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

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

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

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

22 (a) Upon witnessing a violation of this chapter or a rule or
23 order or a water right issued under this chapter, the executive
24 director or a person designated by the executive director,
25 including a watermaster or the watermaster's deputy, [~~as defined by~~
26 ~~commission rule,~~] may issue the alleged violator a field citation
27 alleging that a violation has occurred and providing the alleged

1 violator the option of either:

2 (1) without admitting to or denying the alleged
3 violation, paying an administrative penalty in accordance with the
4 predetermined penalty amount established under Subsection (b) [~~of~~
5 ~~this section~~] and taking remedial action as provided in the
6 citation; or

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

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

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

12 (1) the application conforms to the requirements
13 prescribed by this chapter and is accompanied by the prescribed
14 fee;

15 (2) unappropriated water is available in the source of
16 supply;

17 (3) the proposed appropriation:

18 (A) is intended for a beneficial use;

19 (B) does not impair existing water rights or
20 vested riparian rights;

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

22 (D) considers any applicable environmental flow
23 standards established under Section 11.1471 and, if applicable, the
24 assessments performed under Sections 11.147(d) and (e) and Sections
25 11.150, 11.151, and 11.152; and

26 (E) addresses a water supply need in a manner
27 that is consistent with the state water plan and the relevant

1 approved regional water plan for any area in which the proposed
2 appropriation is located, unless the commission determines that
3 conditions warrant waiver of this requirement; and

4 (4) the applicant has provided evidence that
5 reasonable diligence will be used to avoid waste and achieve water
6 conservation as defined by [~~Subdivision (8)(B),~~] Section
7 11.002(8)(B) [~~11.002~~].

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

11 (b) In its consideration of an application for a permit to
12 store, take, or divert water, the commission shall assess the
13 effects, if any, of the issuance of the permit on the bays and
14 estuaries of Texas. For permits issued within an area that is 200
15 river miles of the coast, to commence from the mouth of the river
16 thence inland, the commission shall include in the permit any
17 conditions considered necessary to maintain beneficial inflows to
18 any affected bay and estuary system, to the extent practicable when
19 considering all public interests and the studies mandated by
20 Section 16.058 as evaluated under Section 11.1491[~~, those~~
21 ~~conditions considered necessary to maintain beneficial inflows to~~
22 ~~any affected bay and estuary system~~].

23 (d) In its consideration of an application to store, take,
24 or divert water, the commission shall include in the permit, to the
25 extent practicable when considering all public interests, those
26 conditions considered by the commission necessary to maintain
27 existing instream uses and water quality of the stream or river to

1 which the application applies. In determining what conditions to
2 include in the permit under this subsection, the commission shall
3 consider among other factors:

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

5 (2) any water quality assessment performed under
6 Section 11.150.

7 (e) The commission shall include in the permit, to the
8 extent practicable when considering all public interests, those
9 conditions considered by the commission necessary to maintain fish
10 and wildlife habitats. In determining what conditions to include
11 in the permit under this subsection, the commission shall consider
12 any assessment performed under Section 11.152.

13 (e-1) Any permit for a new appropriation of water or an
14 amendment to an existing water right that increases the amount of
15 water authorized to be stored, taken, or diverted must include a
16 provision allowing the commission to adjust the conditions included
17 in the permit or amended water right to provide for protection of
18 instream flows or freshwater inflows. With respect to an amended
19 water right, the provision may not allow the commission to adjust a
20 condition of the amendment other than a condition that applies only
21 to the increase in the amount of water to be stored, taken, or
22 diverted authorized by the amendment. This subsection does not
23 affect an appropriation of or an authorization to store, take, or
24 divert water under a permit or amendment to a water right issued
25 before September 1, 2007. The commission shall adjust the
26 conditions if the commission determines, through an expedited
27 public comment process, that such an adjustment is appropriate to

1 achieve compliance with applicable environmental flow standards
2 adopted under Section 11.1471. The adjustment:

3 (1) in combination with any previous adjustments made
4 under this subsection may not increase the amount of the
5 pass-through or release requirement for the protection of instream
6 flows or freshwater inflows by more than 12.5 percent of the
7 annualized total of that requirement contained in the permit as
8 issued or of that requirement contained in the amended water right
9 and applicable only to the increase in the amount of water
10 authorized to be stored, taken, or diverted under the amended water
11 right;

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

16 (3) must be based on appropriate consideration of any
17 voluntary contributions to the Texas Water Trust, and of any
18 voluntary amendments to existing water rights to change the use of a
19 specified quantity of water to or add a use of a specified quantity
20 of water for instream flows dedicated to environmental needs or bay
21 and estuary inflows as authorized by Section 11.0237(a), that
22 actually contribute toward meeting the applicable environmental
23 flow standards.

24 (e-2) Any water right holder who makes a contribution or
25 amends a water right as described by Subsection (e-1)(3) is
26 entitled to appropriate credit for the benefits of the contribution
27 or amendment against the adjustment of the holder's water right

1 under Subsection (e-1).

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

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

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

13 (a) The commission by rule shall:

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

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

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

26 (b) In adopting environmental flow standards for a river
27 basin and bay system under Subsection (a)(1), the commission shall

1 consider:

2 (1) the definition of the geographical extent of the
3 river basin and bay system adopted by the advisory group under
4 Section 11.02362(a) and the definition and designation of the river
5 basin by the board under Section 16.051(c);

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

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

12 (4) the recommendations developed by the applicable
13 basin and bay area stakeholders committee under Section 11.02362(o)
14 regarding environmental flow standards and strategies to meet the
15 flow standards;

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

18 (6) the specific characteristics of the river basin
19 and bay system;

20 (7) economic factors;

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

23 (9) all reasonably available scientific information,
24 including any scientific information provided by the science
25 advisory committee; and

26 (10) any other appropriate information.

27 (c) Environmental flow standards adopted under Subsection

1 (a)(1) must consist of a schedule of flow quantities, reflecting
2 seasonal and yearly fluctuations that may vary geographically by
3 specific location in a river basin and bay system.

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

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

25 (f) An environmental flow standard or environmental flow
26 set-aside adopted under Subsection (a) may be altered by the
27 commission in a rulemaking process undertaken in accordance with a

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

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

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

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

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

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

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

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

20 (a) The Parks and Wildlife Department and the commission
21 shall have joint responsibility to review the studies prepared
22 under Section 16.058 ~~[of this code]~~, to determine inflow conditions
23 necessary for the bays and estuaries, and to provide information
24 necessary for water resources management. Each agency shall
25 designate an employee to share equally in the oversight of the
26 program. Other responsibilities shall be divided between the Parks
27 and Wildlife Department and the commission to maximize present

1 in-house capabilities of personnel and to minimize costs to the
2 state. Each agency shall have reasonable access to all information
3 produced by the other agency. Publication of reports completed
4 under this section shall be submitted for comment to [~~both~~] the
5 commission, [~~and~~] the Parks and Wildlife Department, the advisory
6 group, the science advisory committee, and any applicable basin and
7 bay area stakeholders committee and basin and bay expert science
8 team.

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

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

27 SECTION 19. Section 11.404(e), Water Code, is amended to

1 read as follows:

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

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

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

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

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

21 (1) geographic representation;

22 (2) amount of water rights held;

23 (3) different types of holders of water rights and
24 users, including water districts, municipal suppliers, irrigators,
25 and industrial users; and

26 (4) experience and knowledge of water management
27 practices.

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

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

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

10 (e) The advisory committee shall:

11 (1) make recommendations to the executive director
12 regarding activities of benefit to the holders of water rights in
13 the administration and distribution of water to holders of water
14 rights in the river basin or segment of the river basin for which
15 the watermaster is appointed;

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

18 (3) perform other advisory duties as requested by the
19 executive director regarding the watermaster operation or as
20 requested by holders of water rights and considered by the
21 committee to benefit the administration of water rights in the
22 river basin or segment of the river basin for which the watermaster
23 is appointed.

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

26 Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER.
27 Section 11.327 applies to the duties and authority of a watermaster

1 appointed for a river basin or segment of a river basin under this
2 subchapter in the same manner as that section applies to the duties
3 and authority of a watermaster appointed for a water division under
4 Subchapter G [~~A watermaster as the agent of the commission and under~~
5 ~~the executive director's supervision shall:~~

6 [~~(1) divide the water of the streams or other sources~~
7 ~~of supply of his segment or basin in accordance with the authorized~~
8 ~~water rights;~~

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

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

18 Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER
19 [ASSESSMENTS]. (a) Section 11.329 applies to the payment of the
20 compensation and expenses of a watermaster appointed for a river
21 basin or segment of a river basin under this subchapter in the same
22 manner as that section applies to the payment of the compensation
23 and expenses of a watermaster appointed for a water division under
24 Subchapter G.

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

27 (c) Money deposited under this section to the credit of the

1 watermaster fund may be used only for the purposes specified by
2 Section 11.3291 with regard to the watermaster operation under this
3 subchapter with regard to which the assessments were collected [~~The~~
4 ~~commission may assess the costs of the watermaster against all~~
5 ~~persons who hold water rights in the river basin or segment of the~~
6 ~~river basin under the watermaster's jurisdiction in accordance with~~
7 ~~Section 11.329 of this code~~].

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

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

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

18 (2) for contracts with cooperating state and federal
19 agencies and universities and with private entities as necessary to
20 provide technical assistance to enable the Texas environmental
21 flows science advisory committee and the basin and bay expert
22 science teams established under Section 11.02362 to perform their
23 statutory duties;

24 (3) to compensate the members of the basin and bay
25 expert science teams established under Section 11.02362 for
26 attendance and participation at meetings of the basin and bay
27 expert science teams and for transportation, meals, lodging, or

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

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

9 SECTION 23. Section 16.059(d), Water Code, is amended to
10 read as follows:

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

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

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

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

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

6 SECTION 25. Section 11.1491(b), Water Code, is repealed.

7 SECTION 26. (a) The governor, lieutenant governor, and
8 speaker of the house of representatives shall appoint the initial
9 members of the environmental flows advisory group as provided by
10 Section 11.0236, Water Code, as added by this Act, as soon as
11 practicable on or after the effective date of this Act.

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

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

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

1 terms of the initial members of each team expire April 1 of the
2 fifth year that begins after the year in which the initial
3 appointments are made.

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

12 SECTION 27. The changes in law made by this Act relating to
13 a permit for a new appropriation of water or to an amendment to an
14 existing water right that increases the amount of water authorized
15 to be stored, taken, or diverted apply only to:

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

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

27 SECTION 28. This Act takes effect September 1, 2007.

ADOPTED

MAY 23 2007

Lotay Spaw
Secretary of the Senate

By: Poente/Averitt

H.B. No. 3

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

By: Averitt

C.S. H.B. No. 3

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (3) mining and recovery of minerals;

23 (4) hydroelectric power;

24 (5) navigation;

25 (6) recreation and pleasure;

26 (7) public parks; and

27 (8) game preserves.

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

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

15 (d-1) The legislature has determined that existing water
16 rights that are converted to water rights for environmental
17 purposes should be enforced in a manner consistent with the
18 enforcement of water rights for other purposes as provided by the
19 laws of this state governing the appropriation of state water.

20 (d-2) The legislature finds that to provide certainty in
21 water management and development and to provide adequate protection
22 of the state's streams, rivers, and bays and estuaries, the state
23 must have a process with specific timelines for prompt action to
24 address environmental flow issues in the state's major basin and
25 bay systems, especially those systems in which unappropriated water
26 is still available.

27 (d-3) The legislature finds that:

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

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

11 (d-4) The legislature finds that while the state has
12 pioneered tools to address freshwater inflow needs for bays and
13 estuaries, there are limitations to those tools in light of both
14 scientific and public policy evolution. To fully address bay and
15 estuary environmental flow issues, the foundation of work
16 accomplished by the state should be improved. While the state's
17 instream flow studies program appears to encompass a comprehensive
18 and scientific approach for establishing a process to assess
19 instream flow needs for rivers and streams across the state, more
20 extensive review and examination of the details of the program,
21 which may not be fully developed until the program is under way, are
22 needed to ensure an effective tool for evaluating riverine
23 environmental flow conditions.

24 (d-5) The legislature finds that the management of water to
25 meet instream flow and freshwater inflow needs should be evaluated
26 on a regular basis and adapted to reflect both improvements in
27 science related to environmental flows and future changes in

1 projected human needs for water. In addition, the development of
2 management strategies for addressing environmental flow needs
3 should be an ongoing, adaptive process that considers and addresses
4 local issues.

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

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

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

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

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

6 (b) The advisory group is composed of nine members as
7 follows:

8 (1) three members appointed by the governor;

9 (2) three members of the senate appointed by the
10 lieutenant governor; and

11 (3) three members of the house of representatives
12 appointed by the speaker of the house of representatives.

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

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

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

16 (3) one member must be a member of the Parks and
17 Wildlife Commission.

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

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

23 (f) A member of the advisory group is not entitled to
24 receive compensation for service on the advisory group but is
25 entitled to reimbursement of the travel expenses incurred by the
26 member while conducting the business of the advisory group, as
27 provided by the General Appropriations Act.

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

3 (h) The commission shall provide staff support for the
4 advisory group.

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

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

24 (2) appropriate methods to encourage persons
25 voluntarily to convert reasonable amounts of existing water rights
26 to use for environmental flow protection temporarily or
27 permanently.

1 (j) The advisory group may adopt rules, procedures, and
2 policies as needed to administer this section, to implement its
3 responsibilities, and to exercise its authority under Sections
4 11.02361 and 11.02362.

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

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

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

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

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

14 (4) progress made in implementing Sections 11.02361
15 and 11.02362; and

16 (5) any other findings and recommendations of the
17 advisory group.

18 (m) The advisory group is abolished on the date that the
19 commission has adopted environmental flow standards under Section
20 11.1471 for all of the river basin and bay systems in this state.

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

25 (b) The advisory group shall appoint to the science advisory
26 committee persons who will provide an objective perspective and
27 diverse technical expertise, including expertise in hydrology,

1 hydraulics, water resources, aquatic and terrestrial biology,
2 geomorphology, geology, water quality, computer modeling, and
3 other technical areas pertinent to the evaluation of environmental
4 flows.

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

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

11 (e) The science advisory committee shall:

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

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

17 (A) environmental flow methodologies for bay and
18 estuary studies and instream flow studies;

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

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

23 (f) To assist the advisory group to assess the extent to
24 which the recommendations of the science advisory committee are
25 considered and implemented, the commission, the Parks and Wildlife
26 Department, and the board shall provide written reports to the
27 advisory group, at intervals determined by the advisory group, that

1 describe:

2 (1) the actions taken by each agency in response to
3 each recommendation; and

4 (2) for each recommendation not implemented, the
5 reason it was not implemented.

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

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

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

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

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

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

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

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

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

13 (3) the basin and bay expert science team shall
14 finalize environmental flow regime recommendations and submit them
15 to the basin and bay area stakeholders committee, the advisory
16 group, and the commission not later than March 1, 2009, except that
17 at the request of the basin and bay area stakeholders committee for
18 good cause shown, the advisory group may extend the deadline
19 provided by this subdivision;

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

24 (5) the commission shall adopt the environmental flow
25 standards as provided by Section 11.1471 not later than September
26 1, 2010.

27 (d) The advisory group shall appoint the basin and bay area

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

21 (e) For a river basin and bay system or a river basin that
22 does not have an associated bay system in this state not listed in
23 Subsection (b), the advisory group shall establish a schedule for
24 the development of environmental flow regime recommendations and
25 the adoption of environmental flow standards. The advisory group
26 shall develop the schedule in consultation with the commission, the
27 Parks and Wildlife Department, the board, and the pertinent basin

1 and bay area stakeholders committee and basin and bay expert
2 science team. The advisory group may, on its own initiative or on
3 request, modify a schedule established under this subsection to be
4 more responsive to particular circumstances, local desires,
5 changing conditions, or time-sensitive conflicts. This subsection
6 does not prohibit, in a river basin and bay system for which the
7 advisory group has not yet established a schedule for the
8 development of environmental flow regime recommendations and the
9 adoption of environmental flow standards, an effort to develop
10 information on environmental flow needs and ways in which those
11 needs can be met by a voluntary consensus-building process.

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

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

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

27 (A) agricultural water users, including

1 representatives of each of the following sectors:

2 (i) agricultural irrigation;

3 (ii) free-range livestock; and

4 (iii) concentrated animal feeding
5 operation;

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

8 (C) municipalities;

9 (D) soil and water conservation districts;

10 (E) industrial water users, including
11 representatives of each of the following sectors:

12 (i) refining;

13 (ii) chemical manufacturing;

14 (iii) electricity generation; and

15 (iv) production of paper products or
16 timber;

17 (F) commercial fishermen;

18 (G) public interest groups;

19 (H) regional water planning groups;

20 (I) groundwater conservation districts;

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

23 (K) environmental interests.

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

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

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

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

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

1 expert science team to facilitate the development of environmental
2 flow regime recommendations.

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

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

16 (n) Each basin and bay expert science team shall submit its
17 environmental flow analyses and environmental flow regime
18 recommendations to the pertinent basin and bay area stakeholders
19 committee, the advisory group, and the commission in accordance
20 with the applicable schedule specified by or established under
21 Subsection (c), (d), or (e). The basin and bay area stakeholders
22 committee and the advisory group may not change the environmental
23 flow analyses or environmental flow regime recommendations of the
24 basin and bay expert science team.

25 (o) Each basin and bay area stakeholders committee shall
26 review the environmental flow analyses and environmental flow
27 regime recommendations submitted by the committee's basin and bay

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

20 (p) In recognition of the importance of adaptive
21 management, after submitting its recommendations regarding
22 environmental flow standards and strategies to meet the
23 environmental flow standards to the commission, each basin and bay
24 area stakeholders committee, with the assistance of the pertinent
25 basin and bay expert science team, shall prepare and submit for
26 approval by the advisory group a work plan. The work plan must:

27 (1) establish a periodic review of the basin and bay

1 environmental flow analyses and environmental flow regime
2 recommendations, environmental flow standards, and strategies, to
3 occur at least once every 10 years;

4 (2) prescribe specific monitoring, studies, and
5 activities; and

6 (3) establish a schedule for continuing the validation
7 or refinement of the basin and bay environmental flow analyses and
8 environmental flow regime recommendations, the environmental flow
9 standards adopted by the commission, and the strategies to achieve
10 those standards.

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

21 (r) Notwithstanding the other provisions of this section,
22 in the event the commission, by permit or order, has established an
23 estuary advisory council with specific duties related to
24 implementation of permit conditions for environmental flows, that
25 council may continue in full force and effect and shall act as and
26 perform the duties of the basin and bay area stakeholders committee
27 under this section. The estuary advisory council shall add members

1 from stakeholder groups and from appropriate science and technical
2 groups, if necessary, to fully meet the criteria for membership
3 established in Subsection (f) and shall operate under the
4 provisions of this section.

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

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

15 (b) This section does not alter the commission's
16 obligations under Section 11.042(b) or (c), 11.046(b),
17 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491,
18 11.150, 11.152, 16.058, or 16.059.

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

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

27 SECTION 9. Section 11.0841, Water Code, is amended by

1 adding Subsection (c) to read as follows:

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

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

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

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

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

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

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

27 (a) Upon witnessing a violation of this chapter or a rule or

1 order or a water right issued under this chapter, the executive
2 director or a person designated by the executive director,
3 including a watermaster or the watermaster's deputy, [as defined by
4 ~~commission rule,~~] may issue the alleged violator a field citation
5 alleging that a violation has occurred and providing the alleged
6 violator the option of either:

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

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

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

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

17 (1) the application conforms to the requirements
18 prescribed by this chapter and is accompanied by the prescribed
19 fee;

20 (2) unappropriated water is available in the source of
21 supply;

22 (3) the proposed appropriation:

23 (A) is intended for a beneficial use;

24 (B) does not impair existing water rights or
25 vested riparian rights;

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

27 (D) considers any applicable environmental flow

1 standards established under Section 11.1471 and, if applicable, the
2 assessments performed under Sections 11.147(d) and (e) and Sections
3 11.150, 11.151, and 11.152; and

4 (E) addresses a water supply need in a manner
5 that is consistent with the state water plan and the relevant
6 approved regional water plan for any area in which the proposed
7 appropriation is located, unless the commission determines that
8 conditions warrant waiver of this requirement; and

9 (4) the applicant has provided evidence that
10 reasonable diligence will be used to avoid waste and achieve water
11 conservation as defined by [~~Subdivision (8)(B),~~] Section
12 11.002(8)(B) [~~11.002~~].

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

16 (b) In its consideration of an application for a permit to
17 store, take, or divert water, the commission shall assess the
18 effects, if any, of the issuance of the permit on the bays and
19 estuaries of Texas. For permits issued within an area that is 200
20 river miles of the coast, to commence from the mouth of the river
21 thence inland, the commission shall include in the permit any
22 conditions considered necessary to maintain beneficial inflows to
23 any affected bay and estuary system, to the extent practicable when
24 considering all public interests and the studies mandated by
25 Section 16.058 as evaluated under Section 11.1491[~~, those~~
26 ~~conditions considered necessary to maintain beneficial inflows to~~
27 ~~any affected bay and estuary system~~].

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

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

10 (2) any water quality assessment performed under
11 Section 11.150.

12 (e) The commission shall include in the permit, to the
13 extent practicable when considering all public interests, those
14 conditions considered by the commission necessary to maintain fish
15 and wildlife habitats. In determining what conditions to include
16 in the permit under this subsection, the commission shall consider
17 any assessment performed under Section 11.152.

18 (e-1) Any permit for a new appropriation of water or an
19 amendment to an existing water right that increases the amount of
20 water authorized to be stored, taken, or diverted must include a
21 provision allowing the commission to adjust the conditions included
22 in the permit or amended water right to provide for protection of
23 instream flows or freshwater inflows. With respect to an amended
24 water right, the provision may not allow the commission to adjust a
25 condition of the amendment other than a condition that applies only
26 to the increase in the amount of water to be stored, taken, or
27 diverted authorized by the amendment. This subsection does not

1 affect an appropriation of or an authorization to store, take, or
2 divert water under a permit or amendment to a water right issued
3 before September 1, 2007. The commission shall adjust the
4 conditions if the commission determines, through an expedited
5 public comment process, that such an adjustment is appropriate to
6 achieve compliance with applicable environmental flow standards
7 adopted under Section 11.1471. The adjustment:

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

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

21 (3) must be based on appropriate consideration of any
22 voluntary contributions to the Texas Water Trust, and of any
23 voluntary amendments to existing water rights to change the use of a
24 specified quantity of water to or add a use of a specified quantity
25 of water for instream flows dedicated to environmental needs or bay
26 and estuary inflows as authorized by Section 11.0237(a), that
27 actually contribute toward meeting the applicable environmental

1 flow standards.

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

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

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

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

18 (a) The commission by rule shall:

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

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

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

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

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

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

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

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

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

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

25 (7) economic factors;

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

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

4 (10) any other appropriate information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (1) geographic representation;

27 (2) amount of water rights held;

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

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

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

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

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

15 (e) The advisory committee shall:

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

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

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

1 is appointed.

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

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

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

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

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

23 Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER
24 [ASSESSMENTS]. (a) Section 11.329 applies to the payment of the
25 compensation and expenses of a watermaster appointed for a river
26 basin or segment of a river basin under this subchapter in the same
27 manner as that section applies to the payment of the compensation

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

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

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

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

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

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

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

1 statutory duties;

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

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

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

16 (d) The priority studies shall be completed not later than
17 December 31, 2016 [~~2010~~]. The Parks and Wildlife Department, the
18 commission, and the board shall establish a work plan that
19 prioritizes the studies and that sets interim deadlines providing
20 for publication of flow determinations for individual rivers and
21 streams on a reasonably consistent basis throughout the prescribed
22 study period. Before publication, completed studies shall be
23 submitted for comment to the commission, the board, and the Parks
24 and Wildlife Department.

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

1 (h) The commission shall apportion, assess, and recover the
2 reasonable costs of administering the water quality management
3 programs under this section from users of water and wastewater
4 permit holders in the watershed according to the records of the
5 commission generally in proportion to their right, through permit
6 or contract, to use water from and discharge wastewater in the
7 watershed. Irrigation water rights, ~~and~~ non-priority
8 hydroelectric rights of a water right holder that owns or operates
9 privately owned facilities that collectively have a capacity of
10 less than two megawatts, and water rights held in the Texas Water
11 Trust for terms of at least 20 years will not be subject to this
12 assessment. The cost to river authorities and others to conduct
13 water quality monitoring and assessment shall be subject to prior
14 review and approval by the commission as to methods of allocation
15 and total amount to be recovered. The commission shall adopt rules
16 to supervise and implement the water quality monitoring,
17 assessment, and associated costs. The rules shall ensure that
18 water users and wastewater dischargers do not pay excessive
19 amounts, that program funds are equitably apportioned among basins,
20 that a river authority may recover no more than the actual costs of
21 administering the water quality management programs called for in
22 this section, and that no municipality shall be assessed cost for
23 any efforts that duplicate water quality management activities
24 described in Section 26.177 [~~of this chapter~~]. The rules
25 concerning the apportionment and assessment of reasonable costs
26 shall provide for a recovery of not more than \$5,000,000 annually.
27 Costs recovered by the commission are to be deposited to the credit

1 of the water resource management account and may be used only to
2 accomplish the purposes of this section. The commission may apply
3 not more than 10 percent of the costs recovered annually toward the
4 commission's overhead costs for the administration of this section
5 and the implementation of regional water quality assessments. The
6 commission, with the assistance and input of each river authority,
7 shall file a written report accounting for the costs recovered
8 under this section with the governor, the lieutenant governor, and
9 the speaker of the house of representatives on or before December 1
10 of each even-numbered year.

11 SECTION 25. Section 11.1491(b), Water Code, is repealed.

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

17 (b) As soon as practicable after taking office, the initial
18 members of the environmental flows advisory group shall appoint the
19 initial members of the Texas environmental flows science advisory
20 committee as provided by Section 11.02361, Water Code, as added by
21 this Act. The terms of the initial members of the committee expire
22 March 1, 2012.

23 (c) The environmental flows advisory group shall appoint
24 the members of each basin and bay area stakeholders committee as
25 provided by Section 11.02362, Water Code, as added by this Act. The
26 terms of the initial members of each committee expire March 1 of the
27 fifth year that begins after the year in which the initial

1 appointments are made.

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

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

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

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

25 (2) the increase in the amount of water authorized to
26 be stored, taken, or diverted under an amendment to an existing
27 water right that increases the amount of water authorized to be

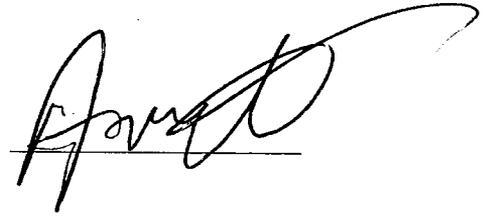
1 stored, taken, or diverted and the application for which is pending
2 with the Texas Commission on Environmental Quality on the effective
3 date of this Act or is filed with the commission on or after that
4 date.

5 SECTION 28. This Act takes effect September 1, 2007.

FLOOR AMENDMENT NO.

2

BY:



1 Amend House Bill No. 3 (Senate Committee Printing) by
2 striking SECTION 28 and substituting the following:

3 SECTION 28. (a) Except as provided by Subsection (b) of
4 this section, this Act takes effect September 1, 2007.

5 (b) This Act takes effect only if Senate Bill No. 3, Acts
6 of the 80th Legislature, Regular Session, 2007, is enacted and
7 becomes law.

ADOPTED

MAY 23 2007


Secretary of the Senate

1 (2) this chapter expires September 1, 2015.

2 Sec. 8269.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

3 (a) All land and other property in the district will benefit
4 from the works and projects to be accomplished by the district
5 under powers conferred by Section 59, Article XVI, Texas
6 Constitution.

7 (b) The district is created to serve a public use and
8 benefit.

9 Sec. 8269.005. INITIAL DISTRICT TERRITORY. (a) The
10 district is initially composed of the territory described by
11 Section 2 of the act creating this chapter.

12 (b) The boundaries and field notes contained in Section 2
13 of the act creating this chapter form a closure. A mistake made
14 in the field notes or in copying the field notes in the
15 legislative process does not affect:

16 (1) the organization, existence, or validity of the
17 district;

18 (2) the right of the district to impose taxes;

19 (3) the right of the district to issue bonds, notes,
20 or other indebtedness or to pay the principal of and interest on
21 a bond;

22 (4) the validity of the district's bonds, notes, or
23 other indebtedness; or

24 (5) the legality or operation of the district or the
25 board.

26 [Sections 8269.006-8269.020 reserved for expansion]

27 SUBCHAPTER A-1. TEMPORARY PROVISIONS

28 Sec. 8269.021. TEMPORARY DIRECTORS. (a) On or after
29 September 1, 2007, a person who owns land in the district may
30 submit a petition to the Texas Commission on Environmental

1 Quality requesting that the commission appoint as temporary
2 directors the five persons named in the petition.

3 (b) The commission shall appoint as temporary directors
4 the five persons named in the first petition received by the
5 commission under Subsection (a).

6 (c) If a temporary director fails to qualify for office or
7 if a vacancy occurs in the office of temporary director, the
8 vacancy shall be filled as provided by Section 49.105, Water
9 Code.

10 (d) Temporary directors serve until the earlier of:

11 (1) the date directors are elected under Section
12 8269.023; or

13 (2) the date this chapter expires under Section
14 8269.003.

15 Sec. 8269.022. ORGANIZATIONAL MEETING OF TEMPORARY
16 DIRECTORS. As soon as practicable after all the temporary
17 directors have qualified under Section 49.055, Water Code, the
18 directors shall meet at a location in the district agreeable to
19 a majority of the directors. If a location cannot be agreed
20 upon, the meeting shall be at the Hays County Courthouse. At
21 the meeting, the temporary directors shall elect officers from
22 among the temporary directors and conduct any other district
23 business.

24 Sec. 8269.023. CONFIRMATION AND INITIAL DIRECTORS'
25 ELECTION. (a) The temporary directors shall hold an election
26 to confirm the creation of the district and to elect five
27 directors as provided by Section 49.102, Water Code.

28 (b) Section 41.001(a), Election Code, does not apply to a
29 confirmation and initial directors' election held under this
30 section.

1 Sec. 8269.024. INITIAL ELECTED DIRECTORS; TERMS. The
2 directors elected under Section 8269.023 shall draw lots to
3 determine which two serve until the first regularly scheduled
4 election of directors under Section 8269.052 and which three
5 shall serve until the second regularly scheduled election of
6 directors.

7 Sec. 8269.025. DATE OF FIRST REGULARLY SCHEDULED ELECTION
8 OF DIRECTORS. The board by order may postpone the first
9 election under Section 8269.052 following the confirmation and
10 initial directors' election held under Section 8269.023 if:

11 (1) the election would otherwise occur not later than
12 the 60th day after the date on which the confirmation election
13 is held; or

14 (2) the board determines that there is not sufficient
15 time to comply with the requirements of law and to order the
16 election.

17 Sec. 8269.026. EXPIRATION OF SUBCHAPTER. This subchapter
18 expires September 1, 2015.

19 [Sections 8269.027-8269.050 reserved for expansion]

20 SUBCHAPTER B. BOARD OF DIRECTORS

21 Sec. 8269.051. DIRECTORS; TERMS. (a) The district is
22 governed by a board of five directors.

23 (b) Directors serve staggered four-year terms.

24 Sec. 8269.052. ELECTION OF DIRECTORS. On the uniform
25 election date in May of each even-numbered year, the appropriate
26 number of directors shall be elected.

27 [Sections 8269.053-8269.100 reserved for expansion]

28 SUBCHAPTER C. POWERS AND DUTIES

29 Sec. 8269.101. GENERAL POWERS AND DUTIES. The district
30 has the powers and duties necessary to accomplish the purposes

1 for which the district is created.

2 Sec. 8269.102. MUNICIPAL UTILITY DISTRICT POWERS AND
3 DUTIES. The district has the powers and duties provided by the
4 general law of this state, including Chapters 49 and 54, Water
5 Code, applicable to municipal utility districts created under
6 Section 59, Article XVI, Texas Constitution.

7 Sec. 8269.103. ROAD PROJECTS. (a) To the extent
8 authorized by Section 52, Article III, Texas Constitution, the
9 district may construct, acquire, improve, maintain, or operate
10 arterials or main feeder roads or improvements in aid of those
11 roads.

12 (b) A road project must meet all applicable construction
13 standards, zoning and subdivision requirements, and regulatory
14 ordinances of the municipality or county in whose jurisdiction
15 the district is located.

16 Sec. 8269.104. COMPLIANCE WITH MUNICIPAL CONSENT
17 ORDINANCES OR RESOLUTIONS. Subject to the limitations of
18 Section 54.016, Water Code, the district shall comply with all
19 valid and applicable requirements of any ordinance or resolution
20 adopted by a municipality in the corporate limits or
21 extraterritorial jurisdiction of which the district is located,
22 including an ordinance or resolution adopted before September 1,
23 2007, that consents to the creation of the district or to the
24 inclusion of lands within the district.

25 [Sections 8269.105-8269.150 reserved for expansion]

26 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

27 Sec. 8269.151. ELECTIONS REGARDING TAXES OR BONDS. (a)
28 Except as provided by Section 8269.201(b), the district may
29 issue, without an election, bonds and other obligations secured
30 by revenue or contract payments from any source other than ad

1 valorem taxation.

2 (b) The district must hold an election in the manner
3 provided by Chapters 49 and 54, Water Code, to obtain voter
4 approval before the district may impose an operation and
5 maintenance tax or issue bonds payable from ad valorem taxes.

6 Sec. 8269.152. OPERATION AND MAINTENANCE TAX. (a) If
7 authorized at an election held under Section 8269.151, the
8 district may impose an operation and maintenance tax on taxable
9 property in the district in accordance with Section 49.107,
10 Water Code.

11 (b) The board shall determine the tax rate. The rate may
12 not exceed the rate approved at the election.

13 [Sections 8269.153-8269.200 reserved for expansion]

14 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

15 Sec. 8269.201. AUTHORITY TO ISSUE BONDS AND OTHER
16 OBLIGATIONS. (a) The district may issue bonds or other
17 obligations payable wholly or partly from ad valorem taxes,
18 impact fees, revenue, grants, or other district money, or any
19 combination of those sources, to pay for any authorized district
20 purpose.

21 (b) The district may not issue bonds to finance projects
22 authorized by Section 8269.103 unless the issuance is approved
23 by a vote of a two-thirds majority of the voters of the district
24 voting at an election called for that purpose.

25 (c) Bonds or other obligations issued or incurred to
26 finance projects authorized by Section 8269.103 may not exceed
27 one-fourth of the assessed value of the real property in the
28 district.

29 Sec. 8269.202. TAXES FOR BONDS. At the time bonds payable
30 wholly or partly from ad valorem taxes are issued:

1 (1) the board shall impose a continuing direct annual
2 ad valorem tax, without limit as to rate or amount, for each
3 year that all or part of the bonds are outstanding; and

4 (2) the district annually shall impose an ad valorem
5 tax on all taxable property in the district in an amount
6 sufficient to:

7 (A) pay the interest on the bonds as the
8 interest becomes due;

9 (B) create a sinking fund for the payment of the
10 principal of the bonds when due or the redemption price at any
11 earlier required redemption date; and

12 (C) pay the expenses of imposing the taxes.

13 SECTION 2. The True Ranch Municipal Utility District No. 1
14 includes all the territory contained in the following area:

15 BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 465.71
16 ACRES, MORE OR LESS, OF LAND AREA IN THE JOHN INGRAIM SURVEY,
17 ABSTRACT NO. 256, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT
18 TRACT DESCRIBED AS 1279.69 ACRES IN A DEED FROM LESLIE TRUE
19 VESPER ET AL TO LESLIE TRUE VESPER DATED AUGUST 10, 1992 AND
20 RECORDED IN VOLUME 948, PAGE 789 OF THE HAYS COUNTY OFFICIAL
21 PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES
22 AND BOUNDS AS FOLLOWS:

23 BEGINNING at a ½" iron rod found in the southwest line of
24 R.M. Highway No. 2325 and that tract described as an 80' R.O.W.
25 in a deed from Cecil H. Hale, et al to the State of Texas dated
26 August 29, 1956 and recorded in Volume 169, Page 304 of the Hays
27 County Deed Records for the most northerly northwest corner of
28 the panhandle portion of this description and the Vesper 1279.69
29 acre tract and east corner of that tract described as 592.30
30 acres in a deed from Leslie True Vesper et al to Ameritrust

1 Texas, N.A., Trustee dated August 10, 1992 and recorded in
2 Volume 949, Page 572 of the Hays County Official Public Records,
3 from which a TXDOT concrete monument found bears N 69°45'42" W
4 162.75 feet;

5 THENCE leaving the Ameritrust Texas 592.30 acre tract and
6 the PLACE OF BEGINNING as shown on that plat numbered 24587-06-
7 3-d dated May 30, 2006 prepared for Leslie Vesper by Byrn &
8 Associates, Inc., of San Marcos, Texas with the common northeast
9 line of the Vesper 1279.69 acre tract and southwest line of R.M.
10 Highway No. 2325 and the State of Texas 80' R.O.W. tract S
11 69°48'34" E 599.94 feet to a ½" iron rod set for the northwest
12 corner of that tract described as "Tract 1-1.00 acres" in a deed
13 from Thomas W. Slaughter et ux to Randy C. Brown et ux dated
14 February 12, 1996 and recorded in Volume 1206, Page 780 of the
15 Hays County Official Public Records, from which A TXDOT concrete
16 monument found bears S 69°47'57" E 120.11 feet;

17 THENCE leaving R.M. Highway No. 2325 and the State of Texas
18 80' R.O.W. tract with the common east line of the Vesper 1279.69
19 acre tract and west and south lines of the Brown 1.00 acre Tract
20 1 the following two courses:

21 1. S 20°06'33" W 226.56 feet to a 2.5" pipe fence corner
22 post found for corner, and

23 S 69°41'58" E 234.42 feet to a 2" pipe fence corner post
24 found in the west line of that tract described as "Tract 2-5.347
25 acres" in the previously mentioned deed to Randy C. Brown et ux
26 for the southeast comer of the Brown 1.00 acre Tract 1;

27 THENCE leaving the Brown 1.00 acre Tract 1 and continuing
28 with the common east line of the Vesper 1279.69 acre tract and
29 west line of the Brown 5.347 acre Tract 2, as fenced and used,
30 the following three courses:

1 S 00°10'12" E 410.74 feet to a ½" iron rod set at the
2 approximate centerline of an underground pipeline for angle
3 point,

4 S 00°04'22" E 196.11 feet to a 2.5" pipe fence post found
5 for angle point, and

6 S 00°24'09" E 15.83 feet to an iron rod found with an
7 aluminum cap stamped "Pro-Tech Eng" at fence corner for the
8 southwest corner of the Brown 5.347 acre Tract 2 and northwest
9 corner of the remaining portion of that tract described as
10 187.78 acres in a deed from Henry Polvado & Lillie Polvado to
11 Wesley Springs dated May 6, 1983 and recorded in Volume 393,
12 Page 570 of the Hays County Deed Records (the Brown 5.347 acre
13 Tract 2 being a portion of the Springs 187.78 acre tract);

14 THENCE leaving the Brown 5.347 acre Tract 2 and continuing
15 with the east line of the Vesper 1279.69 acre tract and west
16 line of the Springs 187.78 acre tract, as fenced and used, the
17 following three courses:

18 S 00°00'57" E 1012.24 feet to a 2.5" pipe fence post found
19 for angle point,

20 S 00°06'57" W 908.05 feet to a 4" pipe fence corner post
21 found for angle point, and

22 S 00°03'12" E 354.80 feet to a 4" pipe fence corner post
23 found for the southwest corner of the springs 187.78 acre tract
24 and northwest corner of that tract described as 126.97 acres in
25 a deed from Stanual W. Farris to the Stanual W. Farris Living
26 Trust dated March 10, 2005 and recorded in Volume 2646, Page 385
27 of the Hays County Official Public Records;

28 THENCE leaving the Springs 187.78 acre tract and continuing
29 with the common east line of the Vesper 1279.69 acre tract and
30 west line of Farris Living Trust 126.97 acre tract, as fenced

89

1 and used, the following three courses:

2 S 00°12'25" W 952.36 feet to a 4" pipe fence post found for
3 angle point,

4 S 00°09'57"W 1087.12 feet to a 4" cedar post found for
5 angle point, and

6 S 00°22'11" W 1072.11 feet to a ½" iron rod found at fence
7 corner for the southwest corner of the Farris Living Trust
8 126.97 acre tract and northwest corner of that tract described
9 as 32.03 acres in a deed from Phil Harris to Shannon Harris
10 dated April 8, 1998 and recorded in Volume 1463, Page 335 of the
11 Hays County Official Public Records;

12 THENCE leaving the Farris Living Trust 126.97 acre tract
13 and continuing with the common east line of the Vesper 1279.69
14 acre tract and west line of the Shannon Harris 32.03 acre tract,
15 as fenced and used, S 00°44'10"W 120.44 feet to a 4" cedar fence
16 corner post found for the southwest corner of the Shannon Harris
17 32.03 acre tract and northwest corner of that tract described as
18 28.92 acres in a deed from A.J. Farris et ux to Philip D. Farris
19 dated July 18, 1991 and recorded in Volume 882, page 620 of the
20 Hays County Official Public Records;

21 THENCE leaving the Shannon Harris 32.03 acre tract and
22 continuing with the common east line of the Vesper 1279.69 acre
23 tract and west line of the Philip D. Farris 28.92 acre tract, as
24 fenced and used, S 00°24'02" W 279.19 feet to a ½" iron rod
25 found at fence corner for the southeast corner of this
26 description and northeast corner of that tract described as
27 52.30 acres in a deed from Leslie True Vesper to Paul R. Eastup
28 et ux dated June 5, 1996 and recorded in Volume 1240, Page 309
29 of the Hays County Official Public Records (the Eastup 52.30
30 acre tract being a portion of the Vesper 1279.69 acre tract);

1 THENCE leaving the Phillip D. Farris 28.92 acre tract and
2 entering the Vesper 1279.69 acre tract with the north line of
3 the Eastup 52.30 acre tract, N 87°10'57" W 1356.38 feet to a ½"
4 iron rod found in fence for the northwest corner of the Eastup
5 52.03 acre tract and northeast corner of that tract described as
6 209.16 acres in a deed from Leslie True Vesper to James Nicholas
7 Edwards and Lynn S. Edwards dated July 6, 2005 and recorded in
8 Volume 2719, Page 740 of the Hays County Official Public Record
9 (the Edwards 209.16 acre tract being a portion of the Vesper
10 1279.69 acre tract);

11 THENCE leaving the Eastup 52.30 acre tract with the north
12 line of the Edwards 209.16 acre tract, as fenced and used, the
13 following five courses:

14 N 87°19'31" W 665.61 feet to a 4" pipe fence post found for
15 angle point,

16 N 86°58'45" W 535.67 feet to a 3" cedar fence post found
17 for angle point,

18 N 87°09'05" W 302.22 feet to a 3" cedar fence post found
19 for angle point,

20 N 87°26'23" W 724.92 feet to a 4" cedar fence post found
21 for angle point, and

22 N 86°46'01" W 426.90 feet to a ½" iron rod found with a
23 plastic cap stamped "Byrn Survey" in the east line of that tract
24 described as 504.13 acres in a deed from Leslie True Vesper to
25 James L. Pierce and David L. Pierce dated February 8, 1999 and
26 recorded in Volume 1500, Page 452 of the Hays County Official
27 Public Records (the Pierce 504.13 acre tract being a portion of
28 the Vesper 1279.69 acre tract);

29 THENCE leaving the Edwards 209.16 acre tract with the east
30 line of the Pierce 504.13 acre tract the following two courses:

1 N 08°19'22" E 124.79 feet to a ½" iron rod found with a
2 plastic cap stamped "Byrn Survey" for corner, and

3 N 87°41'56" W 751.30 feet to a ½" iron rod found with a
4 plastic cap stamped "Byrn Survey" for the southwest corner of
5 this description, an interior corner in the east line of the
6 Pierce 504.13 acre tract, and the south corner of that tract
7 described as 10.59 acres in a deed from Leslie True Vesper to
8 James L. Pierce and David L. Pierce dated June 15, 2001 and
9 recorded in Volume 1872, Page 802 of the Hays County Official
10 Public Records (the Pierce 10.59 acre tract being a portion of
11 the Vesper 1279.69 acre tract);

12 THENCE leaving the Pierce 504.13 acre tract with the east
13 line of Pierce 10.59 acre tract the following two courses:

14 N 05°37'42" E (being the bearing basis for description)
15 734.58 feet to a ½" iron rod found with a plastic cap stamped
16 "Byrn Survey" for angle point, and

17 N 16°12'16" E 1026.26 feet to a 16" cedar tree stump found
18 in fence in the east line of the previously mentioned Pierce
19 504.13 acre tract for the north corner of the Pierce 10.59 acre
20 tract;

21 THENCE leaving the Pierce 10.59 acre tract and continuing
22 with the east line of the Pierce 504.13 acre tract, as fenced
23 and used, the following eight courses:

24 N 20°34'38" E 42.67 feet to a 16" cedar tree stump found
25 for angle point,

26 N 15°43'09" E 241.85 feet to a 12" cedar tree stump found
27 for angle point,

28 N 08°41'46" E 86.90 feet to a 14" cedar tree stump found
29 for angle point,

30 N 07°33'58" E 244.38 feet to a 2.5" pipe fence post found

1 for angle point,
2 N 24°14'46" E 623.77 feet to a 6" cedar fence post found
3 for angle point,
4 N 24°15'46" E 420.45 feet to a 2.5" pipe fence post found
5 for angle point,
6 N 12°52'45" E 194.02 feet to a 2.5" pipe fence post found
7 for angle point, and
8 N 01°30'08" E 340.55 feet to a 4" pipe fence corner post
9 found in the south line of the previously mentioned Ameritrust
10 Texas 592.30 acre tract and north line of the Vesper 1279.69
11 acre tract for the northeast corner of the Pierce 504.13 acre
12 tract and exterior west corner of this description;
13 THENCE leaving the Pierce 504.13 acre tract with the common
14 north line of the Vesper 1279.69 acre tract, and south line of
15 the Ameritrust Texas 592.30 acre tract, as fenced and used, the
16 following six courses:
17 N 73°32'00" E 130.18 feet to a 4" pipe fence post found for
18 angle point,
19 S 48°36'36" E 170.02 feet to a ½" iron rod found for angle
20 point,
21 S 76°17'07" E 88.03 feet to a 4" pipe fence post found for
22 angle point,
23 S 86°44'44" E 798.24 feet to a 4" pipe fence post found for
24 angle point,
25 S 86°55'19" E 913.16 feet to a 4" pipe fence post found for
26 angle point, and
27 S 86°56'50" E 421.51 feet to a ½" iron rod found for the
28 southeast corner of the Ameritrust Texas 592.30 acre tract and
29 southwest corner of the panhandle portion of this description
30 and the Vesper 1279.69 acre tract;

93

1 THENCE leaving the fence with the common west line of the
2 panhandle portion of the Vesper 1279.69 acre tract and east line
3 of the Ameritrust Texas 592.30 acre tract the following two
4 courses:

5 N 00°00'32" E 1999.62 feet to a ½" iron rod found for angle
6 point, and

7 N 32°23'54" E 1152.96 feet to the PLACE OF BEGINNING.

8 THERE are contained within these metes and bounds 465.71
9 acres, more or less, as prepared from public records and surveys
10 made on the ground in 1999, 2001, 2005 and on May 30, 2006 by
11 Byrn & Associates, Inc., of San Marcos, Texas. All ½" iron rods
12 set are capped with a plastic cap stamped "Byrn Survey".

13 SECTION 3. (a) The legal notice of the intention to
14 introduce the provisions of this Act relating to the creation of
15 the True Ranch Municipal Utility District No. 1, setting forth
16 the general substance of those provisions, has been published as
17 provided by law, and the notice and a copy of those provisions
18 have been furnished to all persons, agencies, officials, or
19 entities to which they are required to be furnished under
20 Section 59, Article XVI, Texas Constitution, and Chapter 313,
21 Government Code.

22 (b) The governor, one of the required recipients, has
23 submitted the notice and provisions of this Act relating to the
24 creation of the True Ranch Municipal Utility District No. 1 to
25 the Texas Commission on Environmental Quality.

26 (c) The Texas Commission on Environmental Quality has
27 filed its recommendations relating to the provisions of this Act
28 relating to the creation of the True Ranch Municipal Utility
29 District No. 1 with the governor, the lieutenant governor, and
30 the speaker of the house of representatives within the required

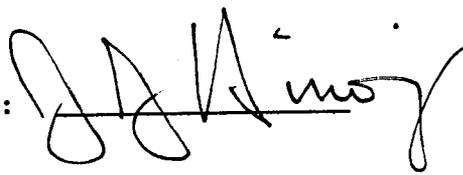
1 time.

2 (d) All requirements of the constitution and laws of this
3 state and the rules and procedures of the legislature with
4 respect to the notice, introduction, and passage of this Act are
5 fulfilled and accomplished.

ADOPTED

FLOOR AMENDMENT NO. 4

MAY 23 2007

BY: 

1 Amend C.S.H.B. 3 (senate committee printing) by adding the
2 following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION __. Chapter 49, Water Code, is amended by adding
5 Subchapter 0 to read as follows:

6 SUBCHAPTER 0. EFFECT OF SUBDIVISION OF NONAGRICULTURAL LAND ON
7 WATER RIGHTS

8 Sec. 49.501. DEFINITION. In this subchapter, "municipal
9 water supplier" means a municipality or a water supply
10 corporation.

11 Sec. 49.502. APPLICABILITY. This subchapter applies only
12 to a district, other than a drainage district, located wholly or
13 partly in a county:

14 (1) that borders the Gulf of Mexico and the United
15 Mexican States; or

16 (2) that is adjacent to a county described by
17 Subdivision (1).

18 Sec. 49.503. PETITION BY MUNICIPAL WATER SUPPLIER TO
19 CONVERT WATER USE AFTER SUBDIVISION. (a) This section applies
20 only to land:

21 (1) that is:

22 (A) subdivided into town lots or blocks or small
23 parcels of the same general nature as town lots or blocks;

24 (B) designed, intended, or suitable for
25 residential or other nonagricultural purposes, including
26 streets, alleys, parkways, parks, detention or retention ponds,
27 and railroad property and rights-of-way; or

28 (C) in a subdivision created to meet the

96

1 requirements of a governmental entity authorized to require a
2 recorded plat of subdivided lands;

3 (2) that is in a subdivision for which a plat or map
4 has been filed and recorded in the office of the county clerk of
5 each county in which the subdivision is wholly or partly
6 located; and

7 (3) that is or was assessed as flat rate irrigable
8 property in the municipal water supplier's certificated service
9 area or its corporate area.

10 (b) A municipal water supplier that serves land described
11 by Subsection (a) may petition the district in accordance with
12 this section to convert the proportionate irrigation water right
13 to the Rio Grande from irrigation use to municipal use with
14 municipal priority of allocation under commission rules, for the
15 use and benefit of the municipal supplier.

16 (c) The municipal water supplier must file the petition
17 with the district not later than January 1 after the expiration
18 of two years after the date the plat or map was recorded under
19 Subsection (a). The district shall consider the petition not
20 later than January 31 of the year following the year in which
21 the petition was filed.

22 (d) The petition must identify by subdivision name or
23 other sufficient description the land that the municipal water
24 supplier supplies or has the right to supply potable water.

25 (e) This section applies only to one subdivision of the
26 land recorded under Subsection (a). This section does not apply
27 to any further subdivision of the same property.

28 Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE
29 TO FILE A PETITION. (a) If a municipal water supplier does not
30 file a petition under Section 49.503, the district may retain

1 the water rights for use by the district or may declare the
2 water as excess and contract for the sale or use of the water as
3 determined by the district.

4 (b) Before a district may contract for the sale or use of
5 water for more than one year with a purchaser located outside of
6 a county described by Section 49.502, the district must, for 90
7 days:

8 (1) make the water available under the same terms to
9 all municipal water suppliers located in those counties; and

10 (2) advertise the offer to sell or contract for the
11 use of the water by posting notice on:

12 (A) any website of the Rio Grande Watermaster's
13 Office;

14 (B) any website of the Rio Grande Regional Water
15 Authority; and

16 (C) the official posting place for the
17 district's board meetings at the district's office.

18 (c) If, after the 90th day after the last date on which
19 the district posted notice, a municipal water supplier in a
20 county described by Section 49.502 has not contracted with the
21 district for the sale or use of the water, the district may
22 contract with any other person for the sale or use of the water
23 under the terms of the offer advertised under Subsection (b).

24 Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A
25 district that receives a petition under Section 49.503 shall
26 compute the proportionate amount of water rights to the Rio
27 Grande. The proportionate amount of water rights is equal to
28 the amount of irrigable acres of land in the subdivision
29 multiplied by the lesser of:

30 (1) 1.25 acre-feet per irrigable acre; or

1 (2) the sum of all irrigation water rights owned by
2 the district on September 1, 2007, as if the water rights had
3 been converted to municipal use under applicable commission
4 rules, divided by the total amount of irrigable acres of land in
5 the district on September 1, 2007.

6 Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE
7 WATER RIGHTS BY DISTRICT. (a) Not later than the second
8 anniversary of the date the municipal water supplier files a
9 petition under Section 49.503:

10 (1) a district shall provide the municipal water
11 supplier with the proportionate water rights described by
12 Section 49.505 from the district's existing water rights; or

13 (2) a district shall, if the district does not have
14 sufficient existing water rights:

15 (A) apply for appropriate amendments to the
16 district's water rights under commission rules to convert the
17 proportionate water rights from irrigation use to municipal use
18 with municipal priority of allocation; and

19 (B) provide to the municipal water supplier the
20 converted rights described by Section 49.505.

21 (b) The district may continue to use the irrigation use
22 water for district purposes until:

23 (1) the commission approves the amendment to the
24 district's water rights; or

25 (2) the water is otherwise provided to the municipal
26 water supplier.

27 (c) A district that applies for appropriate amendments
28 under Subsection (a)(2) shall provide the municipal water
29 supplier with an estimate of the district's reasonable costs for
30 the administrative proceedings. The district is not required to

1 begin the proceedings until the municipal water supplier
2 deposits the amount of the estimate with the district. The
3 municipal water supplier shall pay the district any reasonable
4 costs that exceed the estimate. The district shall refund the
5 balance of the deposit if the actual cost is less than the
6 estimate.

7 Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER
8 RIGHTS; WATER RIGHTS SALE CONTRACT. (a) A municipal water
9 supplier may contract to purchase the proportionate water rights
10 described by Section 49.505.

11 (b) The purchase price may not exceed 68 percent of the
12 current market value, as determined under Section 49.509, for
13 the year that the municipal water supplier petitions the
14 district.

15 (c) The contract must be in writing in a document entitled
16 "Water Rights Sales Contract."

17 (d) The contract must include the purchase price for the
18 water rights or, if the consideration for the sale is not
19 monetary, the terms of the sale.

20 (e) The municipal water supplier shall file the contract
21 with the Rio Grande watermaster not later than the 10th day
22 after the date the contract is executed.

23 (f) The municipal water supplier shall pay the purchase
24 price when the proportionate amount of water rights is made
25 available to the municipal water supplier.

26 Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS;
27 WATER SUPPLY CONTRACT. (a) A municipal water supplier may
28 contract to use water associated with the proportionate water
29 rights described by Section 49.505.

30 (b) The contract must be for at least 40 years.

1 (c) The price for the contractual right to use the
2 municipal use water is based on an amount for one acre-foot of
3 municipal use water with a municipal use priority of allocation
4 and may not exceed the sum of:

5 (1) an amount equal to the district's annual flat
6 rate charge per assessed acre; and

7 (2) the equivalent of the charge for four irrigations
8 per flat rate acre of irrigable property in the district.

9 (d) The parties to the contract shall agree on the terms
10 of payment of the contract price.

11 (e) The board periodically shall determine the flat rate
12 charge and irrigation per acre charge described by Subsection
13 (c).

14 (f) The contract must be in writing in a document entitled
15 "Water Supply Contract." The contract may contain any terms to
16 which the parties agree.

17 (g) The municipal water supplier shall file the contract
18 with the Rio Grande watermaster not later than the 10th day
19 after the date the contract is executed.

20 Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY
21 TO CALCULATE CURRENT MARKET VALUE. (a) The Rio Grand Regional
22 Water Authority annually at its January meeting shall calculate
23 the current market value by using the average price per acre-
24 foot of municipal use water after conversion from irrigation use
25 water to municipal use water with a municipal priority of
26 allocation under commission rules of the last three purchases
27 involving:

28 (1) a municipal water supplier;

29 (2) a party other than a municipal water supplier;

30 and

1 (3) at least 100 acre-feet of municipal use water,
2 with municipal priority of allocation.

3 (b) The Rio Grande Regional Water Authority shall use
4 information from the water rights sales contracts reported to
5 the Rio Grande Watermaster's Office to calculate the current
6 market value.

7 (c) The Rio Grande Regional Water Authority shall make the
8 calculation:

9 (1) without charging any of the parties involved; and
10 (2) using 100 percent of the value of monetary
11 exchanges, not in-kind exchanges.

12 Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. A
13 district shall maintain an accounting of money received from the
14 sale of water rights under this subchapter.

15 Sec. 49.511. CAPITAL IMPROVEMENTS. A district shall
16 designate at least 75 percent of the proceeds from the sale of
17 water rights for capital improvements in the district.

18 Sec. 49.512. MAP OF SERVICE AREA. (a) In this section,
19 "outer boundaries of a district" means district boundaries
20 without considering any exclusion of land from inside the
21 district.

22 (b) Each municipal water supplier that has a certificate
23 of convenience and necessity service area in the outer
24 boundaries of a district shall file a map of the service area
25 with the district.

26 (c) The municipal water supplier shall update the map and
27 forward the map to the district when changes are made.

28 (d) A district periodically shall provide to a municipal
29 water supplier that serves territory in the district a copy of
30 the district's map showing the outer boundaries of the district.

1 (e) A district may request from a municipal water supplier
2 a map of the municipal suppliers's service area, and a municipal
3 water supplier may request from the district a map of the
4 district's outer boundaries. On request, the district and a
5 municipal water supplier shall provide the map free of charge to
6 each other at least one time each year. If the district or
7 municipal water supplier receives more than one request a year
8 for a map, the district or municipal water supplier may charge a
9 reasonable fee for the map.

10 SECTION __. Subchapter 0, Chapter 49, Water Code, as added
11 by this Act, applies only to a subdivision for which a plat or
12 map has been recorded in the office of the county clerk of a
13 county on or after the effective date of this Act. A
14 subdivision for which a plat or map was recorded before the
15 effective date of this Act is covered by the law in effect on
16 the date the plat or map was recorded, and the former law is
17 continued in effect for that purpose.

ADOPTED

Shapleigh

FLOOR AMENDMENT NO. 5

MAY 23 2007

BY: _____

Atty Gen
Secretary of the Senate

1 Amend C.S.H.B. No. 3 (senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill appropriately:

4 SECTION __. Sections 16.315 and 16.319, Water Code, are
5 amended to read as follows:

6 Sec. 16.315. POLITICAL SUBDIVISIONS; COMPLIANCE WITH
7 FEDERAL REQUIREMENTS. All political subdivisions are hereby
8 authorized to take all necessary and reasonable actions that are
9 not less stringent than [~~to comply with~~] the requirements and
10 criteria of the National Flood Insurance Program, including but
11 not limited to:

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

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

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

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

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

1 this subchapter;

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

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

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

12 (B) establishing flood-risk zones in all such
13 areas and making estimates with respect to the rates of probable
14 flood-caused loss for the various flood-risk zones for each of
15 these areas;

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

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

23 (10) purchasing, leasing, and receiving property from
24 the director when such property is owned by the federal
25 government and lies within the boundaries of the political
26 subdivision pursuant to agreements with the Federal Emergency
27 Management Agency or other appropriate legal representative of
28 the United States Government;

29 (11) requesting aid pursuant to the entire
30 authorization from the commission;

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

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

7 (14) adopting more comprehensive floodplain
8 management rules that the political subdivision determines are
9 necessary for planning and appropriate to protect public health
10 and safety;

11 (15) participating in floodplain management and
12 mitigation initiatives such as the National Flood Insurance
13 Program's Community Rating System, Project Impact, or other
14 initiatives developed by federal, state, or local government;
15 and

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

18 Sec. 16.319. QUALIFICATION. Political subdivisions
19 wishing to qualify under the National Flood Insurance Program
20 shall have the authority to do so by complying with the
21 directions of the Federal Emergency Management Agency and by:

22 (1) evidencing to the director a positive interest in
23 securing flood insurance coverage under the National Flood
24 Insurance Program; and

25 (2) giving to the director satisfactory assurance
26 that measures will have been adopted for the political
27 subdivision that ~~[which measures]~~ will be not less stringent
28 than ~~[consistent with]~~ the comprehensive criteria for land
29 management and use developed by the Federal Emergency Management
30 Agency.

ADOPTED

MAY 23 2007

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 6

BY: William Williams

1 Amend H B. No. 3 by adding the following SECTIONS to the
2 bill and by renumbering any subsequent SECTIONS accordingly:

3 SECTION ____ Chapter 26, Water Code, is amended by adding
4 Subchapter N to read as follows:

5 SUBCHAPTER N. SAN JACINTO RIVER WATER QUALITY PROTECTION AREA

6 Sec. 26.601. DEFINITIONS. In this subchapter:

7 (1) "Operator" means any person engaged in or
8 responsible for the physical operation and control of a quarry.

9 (2) "Owner" means any person holding title, wholly or
10 partly, to the land on which a quarry exists or has existed.

11 (3) "Pit" means an open excavation from which sand or
12 gravel has been or is being extracted from a depth of five feet or
13 more below the adjacent and natural ground level.

14 (4) "Quarry" means the site from which sand or gravel
15 for commercial sale or use is being or has been removed or extracted
16 from the earth to form a pit, including the entire excavation,
17 stripped areas, haulage ramps, and the immediately adjacent land on
18 which a plant processing the sand or gravel is located.

19 (5) "Responsible party" means the owner, operator,
20 lessor, or lessee who is responsible for the overall function and
21 operation of a quarry.

22 (6) "San Jacinto water quality protection area" means
23 territory located one-half mile or less from:

24 (A) that portion of the East Fork of the San
25 Jacinto River from State Highway 105 downstream to Lake Houston;

26 (B) that portion of the West Fork of the San
27 Jacinto River from Interstate Highway 45 downstream to Lake
28 Houston; and

29 (C) Spring Creek from its most easterly

1 intersection with Farm-to-Market Road 1736 downstream to its
2 confluence with the West Fork of the San Jacinto River.

3 (7) "Water quality protection area" means territory
4 located one-half mile or less from a river the water quality of
5 which is threatened by activities at a quarry.

6 Sec. 26.602. APPLICABILITY; PILOT PROGRAM. (a) This
7 subchapter applies only to sand and gravel quarries located in a
8 water quality protection area designated by commission rule.

9 (b) This subchapter does not apply to:

10 (1) permitting, construction, or operation of a
11 municipal solid waste landfill or other solid waste facility
12 regardless of whether the facility includes an excavation that is
13 associated with past quarrying activities; or

14 (2) an excavation, pit, or quarry associated with or
15 related to the operations of a municipal solid waste landfill or
16 other solid waste facility, regardless of the material extracted
17 from or the depth of the excavation, pit, or quarry.

18 (c) This subchapter does not apply to an activity, facility,
19 or operation regulated under Chapter 134, Natural Resources Code.

20 (d) For the period of September 1, 2007, to September 1,
21 2027, the commission shall apply this subchapter only as a pilot
22 program in the San Jacinto water quality protection area.

23 Sec. 26.603. REGULATION OF QUARRIES WITHIN WATER QUALITY
24 PROTECTION AREA. (a) The commission by rule shall require a
25 responsible party to obtain an authorization to use a general
26 permit under Section 26.040 for any discharges from a quarry any
27 part of which is located in a water quality protection area
28 designated under this subchapter.

29 (b) Except as provided by Subsection (c), the commission by
30 rule shall prohibit the construction or operation of a new quarry
31 and the expansion of an existing quarry if the new or existing

1 quarry is to be or is located 100 feet or less from a stream that is
2 in a water quality protection area designated under this
3 subchapter.

4 (c) A quarry that is covered by a permit issued by the United
5 States Army Corps of Engineers under Section 404 of the federal
6 Clean Water Act (33 U.S.C. Section 1344) may operate within 100 feet
7 of a stream if that permit authorizes the operation, regardless of
8 whether the quarry is located in a water quality protection area
9 designated under this subchapter.

10 (d) The commission by rule shall establish performance
11 criteria and requirements for the general permit required under
12 Subsection (a) to address:

13 (1) slope gradients that minimize the potential for
14 erosion of quarry walls and banks into the surface waters and
15 related water quality considerations;

16 (2) potential effects on areas subject to frequent
17 flooding and related risks to public safety and property;

18 (3) the control of surface water drainage and water
19 accumulation to prevent:

20 (A) erosion, siltation, or runoff; and

21 (B) damage to public or private property; and

22 (4) closure of a quarry, after quarry activities have
23 ended, consistent with best management standards and practices
24 adopted by the commission for quarry stabilization and reuse, which
25 may include soil stabilization and compacting, grading, erosion
26 control measures, removal of waste, debris, and structures, and
27 revegetation.

28 (e) The commission by rule shall establish requirements for
29 financial responsibility that are adequate to protect the water
30 resources in the water quality protection area and include those
31 requirements in the general permit required under Subsection (a).

1 (f) In addition to any other requirements established by
2 commission rule under Subsections (d) and (e), the responsible
3 party for a quarry located in a water quality protection area who is
4 required to obtain an authorization to use a general permit shall
5 include with an application filed with the commission for the
6 authorization:

7 (1) a proposed plan of action for how the responsible
8 party will restore a receiving water body to background conditions
9 in the event of an unauthorized discharge that affects the water
10 body; and

11 (2) a proposed plan of action for how the responsible
12 party will close the quarry, consistent with commission standards,
13 that includes:

14 (A) a description of the natural state of the
15 land surrounding the quarry to which state the quarry will be
16 restored, or the specific land use proposed for the quarry site; and

17 (B) a schedule within which the effort to close
18 the quarry may reasonably be required to be completed after quarry
19 activities have ended.

20 Sec. 26.604. FINANCIAL RESPONSIBILITY; VIOLATION.

21 (a) The commission by rule shall adopt requirements for
22 maintaining acceptable evidence of financial responsibility for:

23 (1) restoration of a water body affected by an
24 unauthorized discharge from a permitted quarry;

25 (2) taking corrective action for and compensating for
26 water quality effects caused by an unauthorized discharge resulting
27 from quarrying; and

28 (3) implementing an approved quarry closure and reuse
29 plan if the responsible party is unwilling or unable to meet the
30 requirements of the plan.

31 (b) A responsible party may not operate a permitted quarry

1 knowing that acceptable evidence of financial responsibility has
2 not been maintained.

3 Sec. 26.605. INSPECTIONS OF AND SAMPLING OF WATER IN PILOT
4 AREA. (a) To detect potential violations of this subchapter in
5 the San Jacinto water quality protection area, the commission, the
6 San Jacinto River Authority, and the Parks and Wildlife Department
7 shall coordinate efforts to conduct:

8 (1) visual inspections of the water quality protection
9 area; and

10 (2) analyses of surface water samples from the San
11 Jacinto River and its tributaries subject to this subchapter.

12 (b) The visual inspections and analyses of water samples
13 must be conducted at least twice annually. At least once each year,
14 an inspection of the San Jacinto water quality protection area must
15 be conducted from an aircraft flying over the area.

16 Sec. 26.606. UNAUTHORIZED DISCHARGES OF CERTAIN WASTES
17 WITHIN WATER QUALITY PROTECTION AREA; ENFORCEMENT. (a) The
18 commission shall enforce this subchapter and impose administrative
19 and civil penalties as authorized by this code for discharges from a
20 quarry in violation of this subchapter or of any commission rule.

21 (b) In addition to the administrative penalties and other
22 available remedies or causes of action, the commission may seek
23 injunctive relief in the district courts of Travis County to
24 require:

25 (1) the temporary or permanent closure of a quarry
26 operated without authorization required under this subchapter;

27 (2) the temporary or permanent closure of a permitted
28 quarry under this subchapter for which acceptable evidence of
29 financial responsibility is not maintained;

30 (3) the temporary or permanent closure of any quarry
31 responsible for an unauthorized discharge; or

1 (4) corrective action by the responsible party for a
2 quarry that is responsible for an unauthorized discharge.

3 Sec. 26.607. EMERGENCY ORDERS. The commission may issue a
4 temporary or emergency order under Section 5.509 relating to a
5 discharge of waste or pollutants from a quarry into or adjacent to
6 water in a water quality protection area designated under this
7 subchapter.

8 Sec. 26.608. RECOVERY OF COSTS FOR UNAUTHORIZED DISCHARGES
9 WITHIN WATER QUALITY PROTECTION AREA. If the commission has
10 incurred any costs in undertaking a corrective or enforcement
11 action with respect to an unauthorized discharge from a quarry
12 under this subchapter, including a reclamation or restoration
13 action, the responsible party is liable to this state for all
14 reasonable costs of the corrective or enforcement action, including
15 court costs and reasonable attorney's fees, and for any punitive
16 damages that may be assessed by the court.

17 Sec. 26.609. COOPERATION WITH OTHER STATE AGENCIES.
18 (a) The commission is the principal authority in this state on
19 matters relating to the implementation of this subchapter. All
20 other state agencies engaged in water quality or water pollution
21 control activities in a water quality protection area designated
22 under this subchapter shall coordinate those activities with the
23 commission.

24 (b) The executive director, with the consent of the
25 commission, may enter into contracts, memoranda of understanding,
26 or other agreements with other state agencies for purposes of
27 developing requirements, including requirements for financial
28 responsibility, for inclusion in any general permit required by
29 this subchapter that are adequate to protect the water resources in
30 the water quality protection area.

31 Sec. 26.610. WATER QUALITY PROTECTION AREA REPORTS.

1 (a) On or before December 1, 2008, the commission shall prepare a
2 report describing its implementation of this subchapter and provide
3 copies of the report to the governor, lieutenant governor, and
4 speaker of the house of representatives.

5 (b) Beginning December 1, 2010, and on December 1 of each
6 succeeding even-numbered year, the commission shall deliver a
7 report to the governor, lieutenant governor, and speaker of the
8 house of representatives evaluating the implementation and
9 operation of the water quality protection permitting and
10 enforcement programs developed under this subchapter.

11 (c) At the discretion of the commission, the report under
12 Subsection (b) may be consolidated with any other appropriate
13 agency biennial report, including the report required under
14 Subchapter M, except that information specific to any water quality
15 protection area designated under this subchapter must be clearly
16 identified.

17 Sec. 26.611. EXPIRATION. This subchapter expires September
18 1, 2027.

19 SECTION _____. (a) The Texas Commission on Environmental
20 Quality shall adopt rules to implement Subchapter N, Chapter 26,
21 Water Code, as added by this Act, as soon as practicable.

22 (b) A responsible party required to obtain an authorization
23 to use a general permit described by Subchapter N, Chapter 26, Water
24 Code, as added by this Act, shall submit an application for the
25 authorization on or before the 180th day after the date rules of the
26 Texas Commission on Environmental Quality adopted under that
27 subchapter take effect.

ADOPTED

FLOOR AMENDMENT NO. 7

MAY 28 2008 BY:

Atty. Gen.
Secretary of the Senate

Shapleigh

1 Amend H.B. 4 by adding the following appropriately numbered
2 SECTION to the bill and renumbering subsequent SECTIONS of the
3 bill accordingly:

4 SECTION __.(a) In this section, "board" means the Texas
5 Water Development Board.

6 (b) The board, in coordination with the Far West Texas
7 Regional Water Planning Group established pursuant to Section
8 16.053, Water Code, shall conduct a study regarding the possible
9 impact of climate change on surface water supplies from the Rio
10 Grande.

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

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

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

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

25 (d) The conference should include, but not be limited to,
26 the participation of representatives of:

27 (1) the Far West Texas Regional Water Planning Group;

28 (2) water authorities;

- 1 (3) industrial customers;
- 2 (4) agricultural interests;
- 3 (5) municipalities;
- 4 (6) fishing or recreational interests;
- 5 (7) environmental advocacy organizations; and
- 6 (8) institutions of higher education.

7 (e) Not later than December 31, 2008, the board shall
8 submit to the legislature a written report regarding the study
9 findings under Subsection (b) of this section.

FLOOR AMENDMENT NO. 8 **ADOPTED**

MAY 23 2007

By: 

Amend C.S.H.B. No. 3 by ~~adding the~~ following as a new Article and numbering it and all sections appropriately:
Secretary of the Senate

ARTICLE ____ . EDWARDS AQUIFER AUTHORITY.

SECTION ____ . Subsection (f), Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(f) The authority may own, finance, design, ~~[contract with a person who uses water from the aquifer for the authority or that person to]~~ construct, operate, or ~~[own, finance, and]~~ maintain recharge [water supply] facilities. ~~[Management fees or special fees may not be used for purchasing or operating these facilities.]~~ For the purpose of this subsection, "recharge [water supply] facility" means [includes] a dam, reservoir, ~~[treatment facility, transmission facility,]~~ or other method of recharge project and associated facilities, structures, or works but does not include a facility to recirculate water at Comal or San Marcos Springs.

(1) The authority shall provide written notice of the intent to own, finance, design, construct, operate, or maintain recharge facilities to:

(a) each groundwater conservation district in the area in which the recharge facility will be located;

(b) the mayor of each municipality in the area in which the recharge facility will be located;

(c) the county judge of each county in the area in which the recharge facility will be located; and

(d) each member of the legislature who represents the area in which the proposed recharge facility will be located.

(2) Any entity within the county in which a recharge facility is to be constructed will be provided opportunity for input and allowed to provide proposals for partnering with the authority to

own, finance, design, construct, operate, or maintain these recharge facilities.

SECTION _____. Subsections (a), (c), (e), (f), and (h), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

- (1) protect the water quality of the aquifer;
- (2) protect the water quality of the surface streams to which the aquifer provides springflow;
- (3) achieve water conservation;
- (4) maximize the beneficial use of water available for withdrawal from the aquifer;
- (5) recognize the extent of the hydro-geologic connection and interaction between surface water and groundwater;
- (6) protect aquatic and wildlife habitat;
- (7) [~~6~~] protect species that are designated as threatened or endangered under applicable federal or state law; and
- (8) [~~7~~] provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections [~~d~~] (f) [~~7~~] and (h) of this section and Section 1.26 of this article, for the period beginning January 1, 2008, the amount of permitted withdrawals from the aquifer may not exceed or be less than 572,000 [~~400,000~~] acre-feet of water for each calendar year, which is the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement, test, or exempt wells or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit [~~additional water as~~

~~provided by Subsection (d) and then on an interruptible basis].~~

(f) If the level of the aquifer is equal to or greater than 660 ~~[650]~~ feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. If the level of the aquifer is equal to or greater than 845 feet at Well J-27, the authority may authorize withdrawal from the Uvalde pool, on an uninterruptible basis, of permitted amounts. ~~[The authority shall limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.]~~

(h) To accomplish the purposes of this article, ~~[by June 1, 1994,]~~ the authority, through a program, shall implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. The authority from time to time as appropriate may revise the practices, procedures, and methods. To meet this requirement, the authority shall require:

(1) phased adjustments to ~~[reductions in]~~ the amount of water that may be used or withdrawn by existing users or categories of other users, including adjustments in accordance with the authority's critical period management plan established under Section 1.26 of this article; or

(2) implementation of alternative management practices, procedures, and methods.

SECTION _____. Subsection (g), Section 1.16, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(g) The authority shall issue an initial regular permit without a term, and an initial regular permit remains in effect

until the permit is abandoned or [7] cancelled [~~7~~ or retired].

SECTION _____. Subsection (b), Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) Withdrawal of water under a term permit must be consistent with the authority's critical period management plan established under Section 1.26 of this article. A holder of a term permit may not withdraw water from the San Antonio pool of the aquifer unless:

(1) the level of the aquifer is higher than 675 [665] feet above sea level, as measured at Well J-17;

(2) the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second;
and

(3) the flow at San Marcos Springs as determined by Section 1.26(c) of this article is greater than 200 cubic feet per second.

SECTION _____. Subsection (a), Section 1.22, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may acquire permitted rights to use water from the aquifer for the purposes of:

(1) holding those rights in trust for sale or transfer of the water or the rights to persons within the authority's jurisdiction who may use water from the aquifer;

(2) holding those rights in trust as a means of managing overall demand on the aquifer; or

(3) holding those rights for resale [~~or retirement as a means of complying with pumping reduction requirements under this article, or~~

~~(4) retiring those rights, including those rights already permitted].~~

SECTION _____. Article 1, Chapter 626, Acts of the 73rd

Legislature, Regular Session, 1993, is amended by amending Section 1.26 and adding Section 1.26A to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After review of the recommendations received in the program document, as prescribed by Section 1.26A of this article, the [The] authority by rule shall adopt [prepare and coordinate implementation of] a [plan for] critical period management plan consistent with Sections 1.14(a), (f), and (h) of this article [on or before September 1, 1995]. The critical period management plan shall be adopted by the authority no later than six months after the authority's receipt of the program document. On adoption of the critical period management plan, the authority shall provide a written report to the governor, lieutenant governor, and speaker of the house of representatives describing the actions taken in response to each recommendation and, for each recommendation not implemented, the reason it was not implemented. The plan [mechanisms] must:

(1) distinguish between discretionary use and nondiscretionary use;

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; ~~and~~

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

(A) municipal, domestic, and livestock;

(B) industrial and crop irrigation;

(C) residential landscape irrigation;

(D) recreational and pleasure; and

(E) other uses that are authorized by law; and

(5) allow irrigation use to continue in order to permit

the user to complete the irrigation of a crop in progress.

(b) In this section, "MSL" means the elevation above mean sea level, measured in feet, of the surface of the water in a well, and "CFS" means cubic feet per second. Not later than January 1, 2008, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or the Comal or San Marcos Springs flow as applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 35 percent under Table 2:

TABLE 1

CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES

FOR THE SAN ANTONIO POOL

<u>Comal Springs Flow CFS</u>	<u>San Marcos Springs Flow CFS</u>	<u>Index Well J-17 Level MSL</u>	<u>Critical Period Stage</u>	<u>Withdrawal Reduction- San Antonio Pool</u>
<u><225</u>	<u><96</u>	<u><660</u>	<u>I</u>	<u>20%</u>
<u><200</u>	<u><80</u>	<u><650</u>	<u>II</u>	<u>30%</u>
<u><150</u>	<u>N/A</u>	<u><640</u>	<u>III</u>	<u>35%</u>
<u><100</u>	<u>N/A</u>	<u><630</u>	<u>IV</u>	<u>40%</u>

TABLE 2

CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES

FOR THE UVALDE POOL

<u>Withdrawal Reduction- Uvalde Pool</u>	<u>Index Well J-27 Level MSL</u>	<u>Critical Period Stage</u>
<u>N/A</u>	<u>---</u>	<u>I</u>
<u>5%</u>	<u><850</u>	<u>II</u>
<u>20%</u>	<u><845</u>	<u>III</u>
<u>35%</u>	<u><842</u>	<u>IV</u>

(c) A change to a critical period stage with higher withdrawal reduction percentages is triggered if the 10-day average of daily springflows at the Comal Springs or the San Marcos Springs or the 10-day average of daily aquifer levels at the J-17 Index Well drops below the lowest number of any of the trigger levels indicated in Table 1. A change to a critical period stage with lower withdrawal reduction percentages is triggered only when the 10-day average of daily springflows at the Comal Springs and the San Marcos Springs and the 10-day average of daily aquifer levels at the J-17 Index Well are all above the same stage trigger level. The authority may adjust the withdrawal percentages for Stage IV

in Tables 1 and 2 if necessary in order to comply with Subsection (d) or (e) of this section.

(d) Beginning September 1, 2007, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 340,000 acre-feet, under critical period Stage IV.

(e) After January 1, 2013, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 320,000 acre-feet, under critical period Stage IV unless, after review and consideration of the recommendations provided under Section 1.26A of this article, the authority determines that a different volume of withdrawals is consistent with Sections 1.14(a), (f), and (h) of this article in maintaining protection for listed, protected and endangered species associated with the aquifer to the extent required by federal law.

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

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

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND

STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY

IMPLEMENTATION PROGRAM. (a) The authority, with the assistance of Texas A&M University, shall cooperatively develop a recovery implementation program through a facilitated, consensus-based process that involves input from the United States Fish and Wildlife Service, other appropriate federal agencies, and all interested stakeholders, including those listed under Subsection (e) (1) of this section. The recovery implementation program shall be developed for the species that are:

(1) listed as threatened or endangered species under federal law; and

(2) associated with the aquifer.

(b) The authority shall enter into a memorandum of agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders in order to develop, not later than December 31, 2007, a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section.

(c) The authority shall enter into an implementing agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section not later than December 31, 2009.

(d) The authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other

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

(1) provide recommendations for withdrawal adjustments based on a combination of spring discharge rates of the San Marcos and Comal Springs and levels at the J-17 and J-27 wells during critical periods to ensure that federally listed, threatened, and endangered species associated with the Edwards Aquifer will be protected at all times, including throughout a repeat of the drought of record;

(2) include provisions to pursue cooperative and grant funding to the extent available from all state, federal, and other sources for eligible programs included in the cooperative agreement under Subsection (c) of this section, including funding for a program director; and

(3) be approved and executed by the authority, the Commission, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board and the United States Fish and Wildlife Service not later than September 1, 2012, and the agreement shall take effect December 31, 2012.

(e) Texas A&M University shall assist in the creation of a steering committee to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. The steering committee must be created not later than September 30, 2007. The initial steering committee shall be composed of:

(1) a representative of each of the following entities, as appointed by the governing body of that entity:

(A) the Edwards Aquifer Authority;

(B) the Texas Commission on Environmental Quality;
(C) the Parks and Wildlife Department;
(D) the Department of Agriculture;
(E) the Texas Water Development Board;
(F) the San Antonio Water System;
(G) the Guadalupe-Blanco River Authority;
(H) the San Antonio River Authority;
(I) the South Central Texas Water Advisory
Committee; and

(J) Bexar County;
(K) CPS Energy; and
(L) Bexar Metropolitan Water District or its
successor; and

(2) nine other persons who respectively must be:

(A) a representative of a holder of an initial
regular permit issued to a retail public utility located west of
Bexar County, to be appointed by the authority;

(B) a representative of a holder of an initial
regular permit issued by the authority for industrial purposes, to
be appointed by the authority;

(C) a representative of a holder of an industrial
surface water right in the Guadalupe River Basin, to be appointed
by the Texas Commission on Environmental Quality;

(D) a representative of a holder of a municipal
surface water right in the Guadalupe River Basin, to be appointed
by the Texas Commission on Environmental Quality;

(E) a representative of a retail public utility in
whose service area the Comal Springs or San Marcos Springs is
located;

(F) a representative of a holder of an initial
regular permit issued by the authority for irrigation, to be
appointed by the commissioner of agriculture;

(G) a representative of an agricultural producer

from the Edwards Aquifer region, to be appointed by the commissioner of agriculture;

(H) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and

(I) a representative of recreational interests in the Guadalupe River Basin, to be appointed by the Parks and Wildlife Commission.

(f) The steering committee shall work with Texas A&M University to:

(1) establish a regular meeting schedule and publish that schedule to encourage public participation; and

(2) not later than October 31, 2007, hire a program director to be housed at Texas A&M University.

(g) Texas A&M University may accept outside funding to pay the salary and expenses of the program director hired under this section and any expenses associated with the university's participation in the creation of the steering committee or subcommittees established by the steering committee.

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

(i) The steering committee appointed under this section shall appoint an Edwards Aquifer area expert science subcommittee not later than December 31, 2007. The expert science subcommittee must be composed of an odd number of not fewer than seven or more than 15 members who have technical expertise regarding the Edwards Aquifer system, the threatened and endangered species that inhabit that system, springflows, or the development of withdrawal limitations. The Bureau of Economic Geology of The University of Texas at Austin and the River Systems Institute at Texas State University shall assist the expert science subcommittee. Chapter

2110, Government Code, does not apply to the size, composition, or duration of the expert science subcommittee.

(j) The Edwards Aquifer area expert science subcommittee shall, among other things, analyze species requirements in relation to spring discharge rates and aquifer levels as a function of recharge and withdrawal levels. Based on that analysis and the elements required to be considered by the authority under Section 1.14 of this article, the expert science subcommittee shall, through a collaborative process designed to achieve consensus, develop recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and possibly different withdrawal reduction levels and stages for critical period management for different pools of the aquifer needed to maintain target spring discharge and aquifer levels. The expert science subcommittee shall submit its recommendations to the steering committee and all other stakeholders involved in the recovery implementation program under this section.

(k) The initial recommendations of the Edwards Aquifer area expert science subcommittee must be completed and submitted to the steering committee and other stakeholders not later than December 31, 2008, and should include an evaluation:

(1) of the option of designating a separate San Marcos pool, of how such a designation would affect existing pools, and of the need for an additional well to measure the San Marcos pool, if designated;

(2) of the necessity to maintain minimum springflows, including a specific review of the necessity to maintain a flow to protect the federally threatened and endangered species; and

(3) as to whether adjustments in the trigger levels for the San Marcos Springs flow for the San Antonio pool should be made.

(1) In developing its recommendations, the Edwards Aquifer

area expert science subcommittee shall:

(1) consider all reasonably available science, including any Edwards Aquifer-specific studies, and base its recommendations solely on the best science available; and

(2) operate on a consensus basis to the maximum extent possible.

(m) After development of the cooperative agreement, the steering committee, with the assistance of the Edwards Aquifer area expert science subcommittee and with input from the other recovery implementation program stakeholders, shall prepare and submit recommendations to the authority. The recommendations must:

(1) include a review of the critical period management plan, to occur at least once every five years;

(2) include specific monitoring, studies, and activities that take into account changed conditions and information that more accurately reflects the importance of critical period management; and

(3) establish a schedule for continuing the validation or refinement of the critical period management plan adopted by the authority and the strategies to achieve the program and cooperative agreement described by this section.

(n) In this subsection, "recharge facility" means a dam, reservoir, or other method of recharge project and associated facilities, structures, or works but does not include facilities designed to recirculate water at Comal or San Marcos Springs. The steering committee shall establish a recharge facility feasibility subcommittee to:

(1) assess the need for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(2) formulate plans to allow the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(3) make recommendations to the steering committee as to how to calculate the amount of additional water that is made available for use from a recharge project including during times of critical period reductions;

(4) maximize available federal funding for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; and

(5) evaluate the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating the facilities.

(o) The steering committee may establish other subcommittees as necessary, including a hydrology subcommittee, a community outreach and education subcommittee, and a water supply subcommittee.

(p) On execution of the memorandum of agreement described by Subsection (b) of this section, the steering committee described by Subsection (e) of this section may, by majority vote of its members, vote to add members to the steering committee, change the makeup of the committee, or dissolve the committee. If the steering committee is dissolved, the program director hired under Subsection (f) of this section shall assume the duties of the steering committee.

(q) The authority shall provide an annual report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 of each year that details:

(1) the status of the recovery implementation program development process;

(2) the likelihood of completion of the recovery implementation program and the cooperative agreement described by Subsection (c) of this section;

(3) the extent to which the recommendations of the Edwards Aquifer area expert science subcommittee are being considered and implemented by the authority;

(4) any other actions that need to be taken in response to each recommendation;

(5) reasons explaining why any recommendation received has not been implemented; and

(6) any other issues the authority considers of value for the efficient and effective completion of the program and the cooperative agreement under this section.

SECTION _____. Subsections (b), (h), and (i), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance its administrative expenses and programs authorized under this article. Each water district governed by Chapter 36 [52], Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(h) Fees assessed by the authority may not be used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements [~~Special fees collected under Subsection (c) or (d) of this section may not be used to finance a surface water supply reservoir project~~].

(i) The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary [~~, but not to exceed five percent of the money collected under Subsection (d) of this section,~~] to finance the activities of the steering committee and any subcommittees

appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to \$75,000 annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION _____. Subsection (a), Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may own, finance, design, construct, [build or] operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, [and] the recharge project does not impair senior water rights or vested riparian rights, and the recharge project is not designed to recirculate water at Comal or San Marcos Springs.

SECTION _____. Subsections (b) and (d), Section 1.14, Section 1.21, and Subsections (a), (c), and (d), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

SECTION _____. (a) Before January 1, 2012, a suit may not be instituted in a state court contesting:

(1) the validity or implementation of this Act; or
(2) the groundwater withdrawal amounts recognized in Section 3 of this Act.

(b) If applicable, a party that files a suit in any court shall be automatically removed from the steering committee established under Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this Act.

(c) A suit against the Edwards Aquifer Authority may not be instituted or maintained by a person who owns, holds, or uses a surface water right and claims injury or potential injury to that right for any reason, including any actions taken by the Edwards Aquifer Authority to implement or enforce Article 1, Chapter 626,

Acts of the 73rd Legislature, Regular Session, 1993, as amended. This section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION _____. The change in law made by this Act applies only to a cause of action filed on or after the effective date of this Act. A cause of action that is filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION _____. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.

If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

ADOPTED

FLOOR AMENDMENT NO. 9

MAY 23 2007

BY:

Vande Kute

Lotay Shaw
Secretary of the Senate

1 Amend floor Amendment No. 8 to C.S.H.B. No. 3 by making
2 the following changes to SECTION __ of the bill and renumbering
3 the subsequent SECTIONS accordingly:

4 SECTION __. Subchapter C, Chapter 361, Health and Safety
5 Code, is amended by adding Section 361.125 to read as follows:

6 Sec. 361.125. PERMIT AND AUTHORIZATION REQUIREMENTS FOR
7 MUNICIPAL SOLID WASTE FACILITY ON RECHARGE OR TRANSITION ZONE OF
8 SOLE SOURCE AQUIFER. (a) In this section:

9 (1) "Recharge zone" and "transition zone" have the
10 meanings assigned by 30 T.A.C. Section 213.3.

11 (2) "Sole source aquifer" means an aquifer that is
12 the sole or principal source of drinking water for an area
13 designated under Section 1424(e), Safe Drinking Water Act (42
14 U.S.C. Section 300h-3(e)).

15 (b) The commission by rule shall:

16 (1) impose heightened standards for the issuance of
17 an authorization or permit for a municipal solid waste facility,
18 including a recycling facility, under this chapter if the
19 facility is located on the recharge zone or transition zone of a
20 sole source aquifer;

21 (2) require a municipal solid waste facility,
22 including a recycling facility, that is located on the recharge
23 zone of a sole source aquifer to install groundwater protection
24 features, such as liners and monitoring wells, specified by the
25 commission; and

26 (3) require a recycling facility that is located on
27 the recharge zone or transition zone of a sole source aquifer to
28 establish fire lanes between piles of combustible materials.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 30, 2007

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3 by Puente (Relating to the management of thw water resources of the state, including the protection of instream flows and freshwater inclows.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3, Committee Report 2nd House, Substituted: a negative impact of (\$3,158,891) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$1,500,201)
2009	(\$1,658,690)
2010	(\$1,950,559)
2011	(\$1,874,459)
2012	(\$1,624,659)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/(Cost) from <i>GAME, FISH, WATER SAFETY AC</i> 9	Change in Number of State Employees from FY 2007
2008	(\$1,500,201)	(\$224,739)	11.1
2009	(\$1,658,690)	(\$219,054)	12.1
2010	(\$1,950,559)	(\$219,978)	13.3
2011	(\$1,874,459)	(\$219,978)	13.3
2012	(\$1,624,659)	(\$220,902)	13.3

Fiscal Analysis

This bill amends various sections of the Water Code to set out a new regulatory approach to provide surface water to meet environmental flow needs. The bill creates an Environmental Flows Advisory Group supported by an Environmental Flows Science Advisory Committee (SAC), to oversee regional consensus-based Bay and Basin Stakeholders Committees as they develop environmental flow standard recommendations for consideration by the Texas Commission on Environmental Quality (TCEQ). These stakeholder committees would also be supported by Basin and Bay Expert Science Teams (BBESTs). The TCEQ, the Texas Water Development Board (TWDB), and the Texas Parks and Wildlife Department (TPWD) would be responsible for coordinating with the advisory group and stakeholder committees, providing reports regarding the groups' recommendations, and providing technical assistance.

The bill would allow the TWDB to use money in the research and planning fund of the Water Assistance Fund No. 480 to compensate members of the SAC and the BBEST for meeting expenses. It would also allow the

TWDB to pay contract costs for technical assistance to SAC and BBESTs and costs incurred by political subdivisions designated as representatives of the stakeholder committees.

The bill would take effect September 1, 2007.

Methodology

To provide technical support to the committees and stakeholder groups established in this bill, 5.0 additional FTEs including a hydrologist, three aqua scientists, and a natural resource specialist and related costs are expected to be needed by the TCEQ totaling \$365,582 a fiscal year. In addition, the TCEQ would have contract service costs of \$250,000 per year to upgrade and maintain water availability models. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill because projected balances in the GR-Dedicated Water Resource Management Account No. 153 would not be adequate.

The TWDB also expects to need additional staff and related costs to provide data and expertise to the committees and stakeholder groups established in this bill, as well as funding for costs incurred by the SAC and BBEST as well as administrative costs for designated political subdivisions and studies relating to bays and estuaries. The agency anticipates needing 3.1 FTEs in fiscal year 2008, 4.1 FTEs in fiscal year 2009 and 5.25 FTEs in subsequent fiscal years. The annual costs for the TWDB range from \$737,610 to \$1,317,968 during the five year period. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill because projected balances in the Water Assistance Fund No. 480 would not be adequate.

The TPWD estimates it will need additional staff (3 FTEs) and travel, operating and equipment costs to provide technical assistance to the BBESTs. The agency anticipates funding to be provided by the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9.

This fiscal note assumes that existing studies and information will be used by SAC and the BBEST. Funds are not included to do additional studies through grant funds.

Technology

The estimated fiscal impact for technology for TCEQ is \$100,000. This cost includes five computers with Geographic Information System (GIS) capabilities

Local Government Impact

Councils and committees created, expanded or modified by the bill could incur administrative costs. However, these costs are not expected to be significant, since state agencies are required to provide technical and staff support to these entities.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JOB, WK, ZS, JF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 13, 2007

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3 by Puente (Relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3, As Engrossed: a negative impact of (\$3,158,891) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$1,500,201)
2009	(\$1,658,690)
2010	(\$1,950,559)
2011	(\$1,874,459)
2012	(\$1,624,659)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND 1</i>	Probable Savings/(Cost) from <i>GAME, FISH, WATER SAFETY AC 9</i>	Change in Number of State Employees from FY 2007
2008	(\$1,500,201)	(\$224,739)	11.1
2009	(\$1,658,690)	(\$219,054)	12.1
2010	(\$1,950,559)	(\$219,978)	13.3
2011	(\$1,874,459)	(\$219,978)	13.3
2012	(\$1,624,659)	(\$220,902)	13.3

Fiscal Analysis

This bill amends various sections of the Water Code to set out a new regulatory approach to provide surface water to meet environmental flow needs. The bill creates an Environmental Flows Advisory Group supported by an Environmental Flows Science Advisory Committee (SAC), to oversee regional consensus-based Bay and Basin Stakeholders Committees as they develop environmental flow standard recommendations for consideration by the Texas Commission on Environmental Quality (TCEQ). These stakeholder committees would also be supported by Basin and Bay Expert Science Teams (BBESTs). The TCEQ, the Texas Water Development Board (TWDB), and the Texas Parks and Wildlife Department (TPWD) would be responsible for coordinating with the advisory group and stakeholder committees, providing reports regarding the groups' recommendations, and providing technical assistance.

The bill would allow the TWDB to use money in the research and planning fund of the Water Assistance Fund No. 480 to compensate members of the SAC and the BBEST for meeting expenses. It would also allow the TWDB to pay contract costs for technical assistance to SAC and BBESTs and costs incurred by political

subdivisions designated as representatives of the stakeholder committees.

The bill would take effect September 1, 2007.

Methodology

To provide technical support to the committees and stakeholder groups established in this bill, 5.0 additional FTEs including a hydrologist, three aqua scientists, and a natural resource specialist and related costs are expected to be needed by the TCEQ totaling \$365,582 a fiscal year. In addition, the TCEQ would have contract service costs of \$250,000 per year to upgrade and maintain water availability models. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill because projected balances in the GR-Dedicated Water Resource Management Account No. 153 would not be adequate.

The TWDB also expects to need additional staff and related costs to provide data and expertise to the committees and stakeholder groups established in this bill, as well as funding for costs incurred by the SAC and BBEST as well as administrative costs for designated political subdivisions and studies relating to bays and estuaries. The agency anticipates needing 3.1 FTEs in fiscal year 2008, 4.1 FTEs in fiscal year 2009 and 5.25 FTEs in subsequent fiscal years. The annual costs for the TWDB range from \$737,610 to \$1,317,968 during the five year period. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill because projected balances in the Water Assistance Fund No. 480 would not be adequate.

The TPWD estimates it will need additional staff (3 FTEs) and travel, operating and equipment costs to provide technical assistance to the BBESTs. The agency anticipates funding to be provided by the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9.

This fiscal note assumes that existing studies and information will be used by SAC and the BBEST. Funds are not included to do additional studies through grant funds.

Technology

The estimated fiscal impact for technology for TCEQ is \$100,000. This cost includes five computers with Geographic Information System (GIS) capabilities

Local Government Impact

Councils and committees created, expanded or modified by the bill could incur administrative costs. However, these costs are not expected to be significant, since state agencies are required to provide technical and staff support to these entities.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JOB, WK, ZS, JF

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 24, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3 by Puente (Relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3, Committee Report 1st House, Substituted: a negative impact of (\$3,158,891) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$1,500,201)
2009	(\$1,658,690)
2010	(\$1,950,559)
2011	(\$1,874,459)
2012	(\$1,624,659)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/(Cost) from <i>GAME, FISH, WATER SAFETY AC</i> 9	Change in Number of State Employees from FY 2007
2008	(\$1,500,201)	(\$224,739)	11.1
2009	(\$1,658,690)	(\$219,054)	12.1
2010	(\$1,950,559)	(\$219,978)	13.3
2011	(\$1,874,459)	(\$219,978)	13.3
2012	(\$1,624,659)	(\$220,902)	13.3

Fiscal Analysis

This bill amends various sections of the Water Code to set out a new regulatory approach to provide surface water to meet environmental flow needs. The bill creates an Environmental Flows Advisory Group supported by an Environmental Flows Science Advisory Committee (SAC), to oversee regional consensus-based Bay and Basin Stakeholders Committees as they develop environmental flow standard recommendations for consideration by the Texas Commission on Environmental Quality (TCEQ). These stakeholder committees would also be supported by Basin and Bay Expert Science Teams (BBESTs). The TCEQ, the Texas Water Development Board (TWDB), and the Texas Parks and Wildlife Department (TPWD) would be responsible for coordinating with the advisory group and stakeholder committees, providing reports regarding the groups' recommendations, and providing technical assistance.

The bill would allow the TWDB to use money in the research and planning fund of the Water Assistance Fund No. 480 to compensate members of the SAC and the BBEST for meeting expenses. It would also allow the

TWDB to pay contract costs for technical assistance to SAC and BBESTs and costs incurred by political subdivisions designated as representatives of the stakeholder committees.

The bill would take effect September 1, 2007.

Methodology

To provide technical support to the committees and stakeholder groups established in this bill, 5.0 additional FTEs including a hydrologist, three aqua scientists, and a natural resource specialist and related costs are expected to be needed by the TCEQ totaling \$365,582 a fiscal year. In addition, the TCEQ would have contract service costs of \$250,000 per year to upgrade and maintain water availability models. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill as future balances in the Water Resource Management Account No. 153 will not be adequate.

The TWDB also expects to need additional staff and related costs to provide data and expertise to the committees and stakeholder groups established in this bill, as well as funding for costs incurred by the SAC and BBEST as well as administrative costs for designated political subdivisions and studies relating to bays and estuaries. The agency anticipates needing 3.1 FTEs in fiscal year 2008, 4.1 FTEs in fiscal year 2009 and 5.25 FTEs in subsequent fiscal years. The annual costs for the TWDB range from \$737,610 to \$1,317,968 during the five year period. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill as future balances in the Water Assistance Fund No. 480 will not be adequate.

The TPWD estimates it will need additional staff (3 FTEs) and travel, operating and equipment costs to provide technical assistance to the BBESTs. The agency anticipates funding to be provided by the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9.

This fiscal note assumes that existing studies and information will be used by SAC and the BBEST. Funds are not included to do additional studies through grant funds.

Technology

The estimated fiscal impact for technology for TCEQ is \$100,000. This cost includes five computers with Geographic Information System (GIS) capabilities

Local Government Impact

Councils and committees created, expanded or modified by the bill could incur administrative costs. However, these costs are not expected to be significant, since state agencies are required to provide technical and staff support to these entities.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JOB, WK, ZS, JF

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 14, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3** by Puente (Relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3, As Introduced: a negative impact of (\$3,158,891) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$1,500,201)
2009	(\$1,658,690)
2010	(\$1,950,559)
2011	(\$1,874,459)
2012	(\$1,624,659)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1	Probable Savings/(Cost) from GAME, FISH, WATER SAFETY AC 9	Change in Number of State Employees from FY 2007
2008	(\$1,500,201)	(\$224,739)	11.1
2009	(\$1,658,690)	(\$219,054)	12.1
2010	(\$1,950,559)	(\$219,978)	13.3
2011	(\$1,874,459)	(\$219,978)	13.3
2012	(\$1,624,659)	(\$220,902)	13.3

Fiscal Analysis

This bill amends various sections of the Water Code to set out a new regulatory approach to provide surface water to meet environmental flow needs. The bill creates an Environmental Flows Advisory Group supported by an Environmental Flows Science Advisory Committee (SAC), to oversee regional consensus-based Bay and Basin Stakeholders Committees as they develop environmental flow standard recommendations for consideration by the Texas Commission on Environmental Quality (TCEQ). These stakeholder committees would also be supported by Basin and Bay Expert Science Teams (BBESTs). The TCEQ, the Texas Water Development Board (TWDB), and the Texas Parks and Wildlife Department (TPWD) would be responsible for coordinating with the advisory group and stakeholder committees, providing reports regarding the groups' recommendations, and providing technical assistance.

The bill would allow the TWDB to use money in the research and planning fund of the Water Assistance Fund No. 480 to compensate members of the SAC and the BBEST for meeting expenses. It would also allow the TWDB to pay contract costs for technical assistance to SAC and BBESTs and costs incurred by

political subdivisions designated as representatives of the stakeholder committees.

The bill would take effect September 1, 2007.

Methodology

To provide technical support to the committees and stakeholder groups established in this bill, 5.0 additional FTEs including a hydrologist, three aqua scientists, and a natural resource specialist and related costs are expected to be needed by the TCEQ totaling \$365,582 a fiscal year. In addition, the TCEQ would have contract service costs of \$250,000 per year to upgrade and maintain water availability models. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill as future balances in the Water Resource Management Account No. 153 will not be adequate.

The TWDB also expects to need additional staff and related costs to provide data and expertise to the committees and stakeholder groups established in this bill, as well as funding for costs incurred by the SAC and BBEST as well as administrative costs for designated political subdivisions and studies relating to bays and estuaries. The agency anticipates needing 3.1 FTEs in fiscal year 2008, 4.1 FTEs in fiscal year 2009 and 5.25 FTEs in subsequent fiscal years. The annual costs for the TWDB range from \$737,610 to \$1,317,968 during the five year period. The agency anticipates General Revenue funding will be necessary to implement the provisions in the bill as future balances in the Water Assistance Fund No. 480 will not be adequate.

The TPWD estimates it will need additional staff (3 FTEs) and travel, operating and equipment costs to provide technical assistance to the BBESTs. The agency anticipates funding to be provided by the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9.

Technology

The estimated fiscal impact for technology for TCEQ is \$100,000. This cost includes five computers with Geographic Information System (GIS) capabilities

Local Government Impact

Councils and committees created, expanded or modified by the bill could incur administrative costs. However, these costs are not expected to be significant, since state agencies are required to provide technical and staff support to these entities.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JOB, WK, ZS, JF

