

1-1 By: Averitt S.B. No. 2319
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 15, 2009, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 15, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of a groundwater conservation district in
1-9 a priority groundwater management area.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 35.012, Water Code, is amended by
1-12 amending Subsections (b) and (c) and adding Subsections (d) through
1-13 (f) to read as follows:

1-14 (b) Except as provided under Section 35.013, within
1-15 ~~[within]~~ two years, but no sooner than 120 days, from the date on
1-16 which the commission issues an order under Section 35.008
1-17 designating a priority groundwater management area, for those areas
1-18 that are not within a district, the commission shall~~[-~~

1-19 ~~[-(1)]~~ create one or more new districts under Section
1-20 36.0151~~[-~~

1-21 ~~[-(2)]~~ recommend that the areas, or a portion of the
1-22 areas, be added to an existing district under Section 35.013, or

1-23 ~~[-(3)]~~ take any combination of the actions under
1-24 Subdivisions (1) and (2)].

1-25 (c) Except as provided by Subsection (d), a district created
1-26 under Section 36.0151 must be composed of territory within two or
1-27 more contiguous counties, unless the commission determines that a
1-28 district composed of territory within noncontiguous counties will
1-29 result in more effective or efficient groundwater management than
1-30 other legal options available to the commission.

1-31 (d) A district created under Section 36.0151 may be composed
1-32 of territory that exists within the boundaries of a single county
1-33 only if:

1-34 (1) the territory within the single county is the only
1-35 area within the designated priority groundwater management area
1-36 that is not within a district; or

1-37 (2) there are other areas within the designated
1-38 priority groundwater management area, but:

1-39 (A) the other areas are not contiguous to the
1-40 territory; and

1-41 (B) the commission determines that creating a
1-42 single district composed of two or more of the noncontiguous areas,
1-43 including the territory, would result in less effective or less
1-44 efficient management of groundwater resources in the territory than
1-45 creating a district composed of the territory within the single
1-46 county.

1-47 (e) For purposes of this section, the commission may
1-48 consider territory in two separately designated priority
1-49 groundwater management areas to be within the same designated
1-50 priority groundwater management area if:

1-51 (1) the priority groundwater management areas share a
1-52 common boundary and one or more common aquifers; and

1-53 (2) the commission determines that a district composed
1-54 of territory within the two areas will result in more effective or
1-55 efficient groundwater management than other legal options
1-56 available to the commission.

1-57 (f) Following the issuance of a commission order under
1-58 Section 35.008, the Texas Agricultural Extension Service shall
1-59 begin an educational program within such areas with the assistance
1-60 and cooperation of the Texas Water Development Board, the
1-61 commission, the Department of Agriculture, other state agencies,
1-62 and existing districts to inform the residents of the status of the
1-63 area's water resources and management options including possible
1-64 formation of a district. The county commissioners court of each

2-1 county in the priority groundwater management area shall form a
 2-2 steering committee to provide assistance to the Texas Agricultural
 2-3 Extension Service in accomplishing the goals of the education
 2-4 program within the area.

2-5 SECTION 2. Subsections (b), (c), (h), and (i), Section
 2-6 35.013, Water Code, are amended to read as follows:

2-7 (b) The commission shall submit a copy of the order to the
 2-8 board of the district to which it is recommending the priority
 2-9 groundwater management area be added. The board shall vote not
 2-10 later than the 120th day after receiving the copy of the order from
 2-11 the commission on the addition of the priority groundwater
 2-12 management area to the district and shall advise the commission of
 2-13 the outcome.

2-14 (c) If the board votes to accept the addition of the
 2-15 priority groundwater management area to the district, the board:

2-16 (1) may request the Texas Agricultural Extension
 2-17 Service, the commission, and the Texas Water Development Board,
 2-18 with the cooperation and assistance of the Department of
 2-19 Agriculture and other state agencies, to administer an educational
 2-20 program to inform the residents of the status of the area's water
 2-21 resources and management options including possible annexation
 2-22 into a district;

2-23 (2) shall call an election to be held not later than
 2-24 the 270th day after the date of the board's vote under Subsection
 2-25 (b) within the priority groundwater management area, or portion of
 2-26 the priority groundwater management area, as delineated by the
 2-27 commission to determine whether [~~if~~] the priority groundwater
 2-28 management area will be added to the district; and

2-29 (3) shall designate election precincts and polling
 2-30 places for the elections in the order calling an election under this
 2-31 subsection.

2-32 (h) If the proposition is defeated, or if the board of the
 2-33 existing district votes not to accept the addition of the area to
 2-34 the district, then the commission shall, except as provided under
 2-35 Subsection (i), create under Section 36.0151 one or more districts
 2-36 covering the priority groundwater management area not later than
 2-37 the later of:

2-38 (1) the second anniversary of the date on which the
 2-39 commission issued its order under Section 35.008 designating a
 2-40 priority groundwater management area; or

2-41 (2) the 180th day after the date described under
 2-42 Subdivision (1) if the legislature is in session on the date
 2-43 described under Subdivision (1) and a bill has been filed and is
 2-44 pending before the legislature to create a district in all or part
 2-45 of the area or to add all or part of the area to an existing district
 2-46 [the first anniversary of the date on which the proposition is
 2-47 defeated or the board votes not to accept the area].

2-48 (i) In creating a district under Section 36.0151, the
 2-49 commission may modify the recommendation issued in its order for
 2-50 district creation under Section 35.008 to reflect the failure of an
 2-51 area to be added to an existing district or to account for the
 2-52 creation of any new districts or the addition of any other territory
 2-53 in the priority groundwater management area to an existing district
 2-54 during the intervening period, provided, however, that such
 2-55 modification does not affect the deadlines for district creation
 2-56 under Section 35.012 or this section. For an area that is not
 2-57 feasible for the creation of one or more districts as determined in
 2-58 the commission's findings under Section 35.008, the commission
 2-59 shall include in its report under Section 35.018 recommendations
 2-60 for the future management of the priority groundwater management
 2-61 area.

2-62 SECTION 3. Notwithstanding Section 35.012, Water Code, as
 2-63 amended by this Act, and Section 36.0151, Water Code, the Texas
 2-64 Commission on Environmental Quality may not create a groundwater
 2-65 conservation district under Section 36.0151, Water Code, before
 2-66 September 1, 2011, in territory that exists within the boundaries
 2-67 of a single county in which total surface water use is more than 50
 2-68 times the total groundwater production and that is located in a
 2-69 priority groundwater management area.

3-1 SECTION 4. This Act takes effect immediately if it receives
3-2 a vote of two-thirds of all the members elected to each house, as
3-3 provided by Section 39, Article III, Texas Constitution. If this
3-4 Act does not receive the vote necessary for immediate effect, this
3-5 Act takes effect September 1, 2009.

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