

1-1 By: Williams S.B. No. 2489
1-2 (In the Senate - Filed April 2, 2009; April 2, 2009, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 28, 2009, reported favorably by the following vote: Yeas 10,
1-5 Nays 0; April 28, 2009, sent to printer.)

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

1-8 relating to the authority of the San Jacinto River Authority to
1-9 implement a groundwater reduction plan for the conservation of
1-10 groundwater and the reduction of groundwater withdrawals in
1-11 Montgomery County, and to issue bonds of the authority; providing
1-12 administrative penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Chapter 426, Acts of the 45th Legislature,
1-15 Regular Session, 1937, is amended by adding Sections 11 through 11M
1-16 to read as follows:

1-17 Sec. 11. GROUNDWATER REDUCTION PLANNING AUTHORITY.
1-18 Consistent with the purposes of Section 59, Article XVI, Texas
1-19 Constitution, and in addition to all rights, powers, privileges,
1-20 authority, and functions conferred by other sections of this Act,
1-21 the authority is authorized to provide for the conservation,
1-22 preservation, protection, recharge, and prevention of waste of
1-23 groundwater and for the reduction of groundwater withdrawals by
1-24 developing, implementing, and enforcing a groundwater reduction
1-25 plan to facilitate compliance with the applicable rules, orders,
1-26 regulations, or requirements of the Lone Star Groundwater
1-27 Conservation District. If the authority determines to exercise the
1-28 powers and authority described by Sections 11 through 11M of this
1-29 Act and to implement a groundwater reduction plan for all or
1-30 substantially all of Montgomery County, the authority shall have
1-31 the continuing duty and responsibility to implement and enforce
1-32 such plan, including the responsibility to develop sufficient
1-33 alternative water supply resources consistent with the purposes
1-34 described in this section, subject to the limitations of
1-35 engineering, financial, and legal feasibility.

1-36 Sec. 11A. DEFINITIONS. In Sections 11 through 11M of this
1-37 Act:

1-38 (1) "Authority" means the San Jacinto River Authority.
1-39 (2) "Board" means the board of directors of the
1-40 authority.

1-41 (3) "Conservation district" means the Lone Star
1-42 Groundwater Conservation District.

1-43 (4) "District" means any district or authority created
1-44 under Sections 52(b)(1) and (2), Article III, or Section 59,
1-45 Article XVI, Texas Constitution, regardless of the manner of
1-46 creation, other than the conservation district, a navigation
1-47 district, a port authority, or a district that does not have legal
1-48 authority to provide retail water service.

1-49 (5) "Groundwater reduction plan" means a plan adopted
1-50 or implemented by the authority to supply water, reduce reliance on
1-51 groundwater, control groundwater pumping or usage by regulated
1-52 users, or restrict, allocate, or require water usage among
1-53 regulated users in order to fully and timely comply with or exceed
1-54 requirements imposed by the conservation district, including any
1-55 applicable groundwater reduction requirements and any related
1-56 water supply plan, water conservation plan, or drought contingency
1-57 plan of the authority.

1-58 (6) "Local government" means a municipality, county,
1-59 district, or other political subdivision of this state or a
1-60 combination of two or more of those entities.

1-61 (7) "Participant" means a regulated user
1-62 participating in the authority's groundwater reduction plan.

1-63 (8) "Person" means an individual, corporation,
1-64 organization, government or governmental subdivision or agency,

district, local government, business trust, estate, trust, partnership, association, and any other legal entity.

(9) "Regulated user" means a person located in whole or in part, or with a service area, certificated area, or boundaries located in whole or in part, in Montgomery County that is subject to any rule, order, regulation, or requirement of the conservation district imposing groundwater withdrawal reductions, except for any person that owns or operates a single groundwater well serving not more than two single-family residential dwellings or units.

Sec. 11B. ADDITIONAL POWERS AND DUTIES. (a) In furtherance of Section 11 of this Act and in addition to all rights, powers, privileges, authority, and functions conferred by other sections of this Act, the authority is authorized to take any and all actions necessary or convenient to:

(1) design, finance, construct, acquire by purchase, gift, lease, contract, or any other legal means, operate, maintain, repair, improve, or extend water treatment or supply systems as necessary to implement the authority's groundwater reduction plan, including all additions to such systems and all land, improvements, facilities, plants, equipment, appliances, interests in property, water rights or contract rights for water supply, and regional, regulatory, or joint use participation rights, or contract rights needed for, and administrative facilities needed in connection with such systems;

(2) enter into contracts of limited or unlimited duration, notwithstanding the provisions of other law or municipal charter provisions to the contrary, with persons inside or outside the authority's boundaries, on terms and conditions the board considers desirable, fair, and advantageous for the exercise of the rights, powers, privileges, authority, and functions contemplated by this Act;

(3) allocate water among participants;

(4) coordinate water services provided by or among participants;

(5) provide wholesale and retail water services to any participant by order, rule, policy, or on open account, without the necessity for execution of a written contract with such participant;

(6) store, sell, or reuse water or any by-product from the operations of the authority's water systems;

(7) adopt and enforce rules and administrative policies reasonably required to implement Sections 11 through 11M of this Act, including rules governing procedures before the board and regarding implementation, enforcement, and any other matters related to the authority's groundwater reduction plan; and

(8) otherwise administer and enforce Sections 11 through 11M of this Act.

(b) The authority may not utilize the systems, facilities, or properties developed to implement the authority groundwater reduction plan to provide treated surface water outside of Montgomery County, except as permitted by Subsection (i), Section 11F of this Act, or as necessary to serve a participant located in part outside of Montgomery County.

(c) Notwithstanding Subdivision (5), Subsection (a) of this section, the authority may not provide retail water service to a person located within the boundaries or certificated area of either a district or municipality or a retail public utility participating in the authority's groundwater reduction plan on the date the authority awards a contract for the construction of, or executes a contract for the acquisition of, water supply facilities to serve that retail user, unless:

(1) the district or municipality or the retail public utility consents in writing to the authority's provision of such retail water service; or

(2) the retail water user is a regulated user, the authority has provided the district or municipality or retail public utility with written notice of the request for service from the retail water user, the authority has provided the district or municipality or retail public utility with reasonable opportunity

to negotiate an agreement for the requested service with the retail water user, and the district or municipality or retail public utility has not entered into an agreement for the requested service with the retail water user on or before the 120th day after the date the authority has provided the district or municipality or retail public utility written notice of the request for service from the retail water user. For purposes of this subsection, the boundaries of a municipality shall include territory within the extraterritorial jurisdiction of the municipality.

(d) If a retail water user is added to the boundaries or certificated area of a district or municipality or a retail public utility after the date the authority awards a contract for the construction of, or executes a contract for the acquisition of, water supply facilities to serve that retail water user, and the district or municipality or retail public utility is a participant, the authority may provide retail water service to that retail water user without consent.

(e) Except as provided by Subsection (c) of this section, the right and power of the authority to provide or continue the provision of wholesale water service to any participant is not limited, restricted, curtailed, or discontinued by:

(1) any part or provision of this section; or

(2) the annexation or inclusion within the boundaries, extraterritorial jurisdiction, or service area by a municipality, district, retail public utility, or other person, for full or limited purposes, of all or any portion of the boundaries or service area of any participant.

(f) Any local government, district, retail public utility, or other person succeeding to the assets and obligations of a participant, whether by annexation, consolidation, merger, abolition, or otherwise, shall assume the rights, powers, authority, obligations, and indebtedness of such participant under Sections 11 through 11M of this Act.

Sec. 11C. INITIAL AREA; INCLUSION IN GROUNDWATER REDUCTION PLAN. (a) The authority shall have jurisdiction to enforce the rights, powers, privileges, authority, and functions contemplated by Sections 11 through 11M of this Act with respect to regulated users located in whole or in part within Montgomery County, except where expressly prohibited by this Act, but only on or after the date such regulated users are included as participants in the authority's groundwater reduction plan.

(b) A person that is a regulated user on the effective date of this section may petition to be included in the authority's groundwater reduction plan by filing with the authority a duly authorized and executed petition requesting inclusion. The board shall grant the petition and order the regulated user included in the authority's groundwater reduction plan if the petition includes an accurate legal description of the boundaries of the regulated user's service area, or other documents, descriptions, or maps that sufficiently identify the area proposed to be included in lieu of such legal description, and the petition is filed with the board not later than the 120th day after the effective date of the initial groundwater reduction plan adopted by the authority under Section 11E of this Act. Such order shall be adopted not later than the 120th day after the last date for filing a petition for inclusion.

(c) If a person that is a regulated user on the effective date of this section is not included in the authority's groundwater reduction plan under Subsection (b) of this section, the authority may not include the regulated user in any groundwater reduction plan adopted or implemented by the authority unless the regulated user is subsequently added to the authority's groundwater reduction plan under Section 11D of this Act.

(d) After a regulated user is included in the authority's groundwater reduction plan under Subsection (b) of this section, the authority may exclude the regulated user from its groundwater reduction plan, at its sole discretion and on terms and conditions the board considers appropriate, on the filing with the board of a duly authorized and executed petition requesting exclusion. This subsection shall not be construed to limit the power of the

authority to exclude a regulated user from its groundwater reduction plan, without the filing of a petition, under Section 11H of this Act.

Sec. 11D. ADDITIONS TO GROUNDWATER REDUCTION PLAN.

(a) Any person that becomes a regulated user after the period has expired for filing a petition for inclusion under Section 11C of this Act shall become a participant without further action by the authority or such person. The authority and the conservation district may enter into such agreements as may be appropriate to provide information to the authority reasonably necessary to identify and contact such participants. The authority by rule may require a participant to provide the authority with any necessary documents pertaining to the participant's service area and the actual or projected water demands of such service area.

(b) A regulated user that was not included in the authority's groundwater reduction plan under Section 11C of this Act may subsequently file with the board a duly authorized and executed petition requesting that all or part of the regulated user's service area be included in the authority's groundwater reduction plan. The petition must include an accurate legal description of the boundaries of the regulated user's service area to be included or other documents, descriptions, or maps that sufficiently identify the area proposed to be included in lieu of such legal description. The authority may grant the petition if, in its sound discretion, the authority determines that:

(1) it is feasible from an engineering and economic standpoint to do so;

(2) granting the petition will not:

(A) result in material increases in costs to the participants in the authority's groundwater reduction plan;

(B) result in any material delay in the implementation of the authority's groundwater reduction plan; or

(C) expose the authority or any participant to additional construction or financing costs, fines, or penalties or noncompliance with applicable regulatory requirements.

(c) The authority may require a regulated user, all or part of whose service area is included in the authority's groundwater reduction plan under Subsection (b) of this section, to pay to the authority, for the benefit of the participants, a reasonable and equitable charge determined by the authority to mitigate or fairly distribute among the participants any additional costs to be incurred by the inclusion of the additional service area in the authority's groundwater reduction plan. If the authority has outstanding or unissued bonds, notes, or other obligations to finance the costs of the authority's provision of water supply facilities and services under the authority's groundwater reduction plan, the petition shall constitute the election and agreement of the petitioning regulated user to assume the regulated user's pro rata share of the principal of and interest on such outstanding or unissued bonds, notes, or other obligations. This subsection shall not apply to an annexation to or expansion of a participant's boundaries, extraterritorial jurisdiction, or service area, as applicable, notwithstanding that such annexation or expansion may include, in whole or in part, territory within or previously within the boundaries or service area of a regulated user that was not included in the authority's groundwater reduction plan under Section 11C of this Act.

(d) The authority by rule may require participants to provide the authority with written notice of the effective date of an annexation to or expansion of the regulated user's boundaries or service area, together with copies of any necessary documents, descriptions, maps, and projected or actual water demands of the annexed or expanded boundaries or service area. Except to the extent otherwise provided by rule, order, or written agreement of the authority, the boundary or service area expansion of a participant does not affect:

(1) the authority's powers and authority inside or outside the expanded boundary or service area of the participant;

(2) the authority's groundwater reduction plan or

contracts; or

(3) the authority's authority to assess fees, user fees, rates, charges, or special assessments inside or outside the expanded boundaries or service area of the participant.

(e) The addition of territory to the authority's groundwater reduction plan under this section does not affect the validity of the authority's bonds, notes, or other obligations authorized, issued, or incurred before or after such addition.

Sec. 11E. GROUNDWATER REDUCTION, WATER SUPPLY, CONSERVATION, AND DROUGHT CONTINGENCY PLANS. (a) The authority may wholly or partly develop, prepare, adopt, amend, revise, implement, enforce, manage, or participate in a groundwater reduction plan as necessary, in the discretion of the authority, to facilitate full and timely compliance with applicable conservation district rules, orders, regulations, or requirements. A groundwater reduction plan may:

(1) specify the measures to be taken by regulated users to reduce groundwater withdrawals;

(2) identify alternative sources of water, including water from the authority, to be provided to regulated users;

(3) identify or estimate the rates, terms, and conditions under which alternative sources of water will be provided, which may be changed from time to time as considered necessary by the authority;

(4) specify the dates and the extents to which participants must reduce or cease usage of groundwater and accept water from alternative sources, including water from the authority;

(5) require conversion or overconversion by regulated users in any designated portion of the plan area to alternative water sources in excess of the minimum requirements imposed by the conservation district, including any applicable groundwater reduction requirements, so long as and to the extent that the conversion or overconversion is necessary or appropriate in implementing the authority's groundwater reduction plan and the costs are apportioned among participants through the authority's fees, user fees, rates, and charges under Section 11F of this Act;

(6) provide that the groundwater reduction plan shall be the exclusive groundwater reduction plan that is binding and mandatory on regulated users included in the plan;

(7) limit, prohibit, or permit the export of groundwater from, or the importation of water from any source to, participants;

(8) require the joint use by one or more participants of the water supply or delivery systems or facilities of a participant to facilitate the delivery of alternative water supplies, but only to the extent feasible without diminishing or impairing the delivery capabilities of the systems or facilities of a participant for its own uses and only upon proper compensation to the participant;

(9) include other terms and measures that are consistent with the powers and duties of the authority; and

(10) be amended from time to time at the discretion of the authority.

(b) The initial groundwater reduction plan of the authority may not be adopted until the later of:

(1) the effective date of any final rule, order, regulation, or requirement adopted by the conservation district that imposes groundwater withdrawal reductions applicable to a regulated user; or

(2) the effective date of one or more written agreements, each with an initial term of not less than 40 years, that grant the authority the right to receive water supply services from all or substantially all of the remaining permitted yield for municipal use in and to the Lake Conroe Dam and Reservoir Project not then permitted to the authority.

(c) Notwithstanding any other provisions of Sections 11 through 11M of this Act, the authority may rescind the adoption of the initial groundwater reduction plan by written order of the board adopted not later than the 240th day or before the 120th day

6-1 following the adoption of the initial groundwater reduction plan if
 6-2 the authority finds, in its sole discretion, that the
 6-3 implementation of the initial groundwater reduction plan is not
 6-4 practicable or feasible for any reason or will not achieve the
 6-5 purposes of Sections 11 through 11M of this Act. On and after the
 6-6 date of the order of the board rescinding the initial groundwater
 6-7 reduction plan, the authority shall have no obligation to continue
 6-8 to develop or implement a groundwater reduction plan for the
 6-9 benefit of any regulated user, including a regulated user that
 6-10 filed a petition to be included in the authority's groundwater
 6-11 reduction plan under Subsection (b), Section 11C of this Act, or
 6-12 that would otherwise be included in the authority's groundwater
 6-13 reduction plan under Subsection (a), Section 11D of this Act.
 6-14 Written notice of the adoption of an order rescinding adoption of
 6-15 the initial groundwater reduction plan shall be provided within 30
 6-16 days to each regulated user that filed a petition to be included in
 6-17 the authority's groundwater reduction plan under Section 11C of
 6-18 this Act, but the failure of a regulated user to receive notice
 6-19 shall not obligate the authority to continue to develop or
 6-20 implement a groundwater reduction plan for the benefit of the
 6-21 regulated user.

6-22 (d) Fees, user fees, rates, charges, and special
 6-23 assessments of the authority may be imposed by the authority as
 6-24 provided by this Act for a regulated user's participation in and
 6-25 benefit derived from the authority's groundwater reduction plan.

6-26 (e) The authority by rule may develop, prepare, adopt,
 6-27 amend, revise, implement, enforce, and manage a comprehensive water
 6-28 supply plan, water conservation plan, or drought contingency plan
 6-29 for and applicable to participants.

6-30 Sec. 11F. FEES, USER FEES, RATES, AND CHARGES. (a) The
 6-31 authority may establish fees, user fees, rates, and charges
 6-32 applicable to any participant and make reasonable classifications
 6-33 of participants for purposes of such fees, rates, and charges as are
 6-34 necessary by the authority to implement and enforce the plans,
 6-35 powers, and authority conferred by Sections 11 through 11M of this
 6-36 Act, but the fees, rates, and charges may not be imposed before the
 6-37 last date for the authority to adopt an order granting a petition to
 6-38 be included in the authority's groundwater reduction plan under
 6-39 Subsection (b), Section 11C of this Act.

6-40 (b) Among other criteria and classifications, the authority
 6-41 may charge a participant a fee or user fee according to the amount
 6-42 of water pumped from the participant's groundwater well. If
 6-43 ownership of a groundwater well changes, both the prior and
 6-44 subsequent well owners are responsible to the authority as
 6-45 participants, jointly and severally, for all fees and user fees
 6-46 imposed by the authority under this Act, and any related penalties
 6-47 and interest, for water pumped from the groundwater well before the
 6-48 change in ownership.

6-49 (c) The board shall make reasonable efforts to notify each
 6-50 participant, by publication or by written notice, of the date,
 6-51 time, and location of the meeting of the board at which the board
 6-52 intends to adopt a proposed rate, fee, user fee, or charge under
 6-53 this section and the amount of the proposed rate, fee, user fee, or
 6-54 charge. The board's failure to provide actual notice to each
 6-55 participant does not invalidate a rate, fee, user fee, or charge
 6-56 adopted by the board under this section.

6-57 (d) The board shall exempt from any rate, fee, user fee, or
 6-58 charge under this section persons or classes of groundwater wells
 6-59 that are not subject to any groundwater reduction requirement
 6-60 imposed by the conservation district, but if any such persons or
 6-61 classes of groundwater wells subsequently become subject to a
 6-62 groundwater reduction requirement imposed by the conservation
 6-63 district, the authority may thereafter impose such rate, fee, user
 6-64 fee, or charge. For purposes of this subsection, a person or a
 6-65 groundwater well is subject to a groundwater reduction requirement
 6-66 if the conservation district has adopted or adopts a requirement or
 6-67 rule that withdrawals from the groundwater well, or from the
 6-68 groundwater well and other groundwater wells collectively, be
 6-69 reduced, including a groundwater reduction requirement that does

7-1 not need to be satisfied until a future date.

7-2 (e) Notwithstanding Subsection (d) of this section, any
 7-3 person that owns or operates a single groundwater well serving not
 7-4 more than two single-family residential dwellings or units, and any
 7-5 groundwater well in such class, shall be exempt from any rate, fee,
 7-6 user fee, or charge under this section or any special assessment
 7-7 under Section 11G of this Act. The board by rule may exempt any
 7-8 other persons or classes of groundwater wells from any rate, fee,
 7-9 user fee, or charge under this section.

7-10 (f) The authority may establish fees, user fees, rates, and
 7-11 charges that are sufficient to:

7-12 (1) achieve water conservation;
 7-13 (2) prevent waste of water;
 7-14 (3) serve as a disincentive to pumping groundwater;
 7-15 (4) develop, implement, or enforce a groundwater
 7-16 reduction plan;

7-17 (5) accomplish the purposes of Sections 11 through 11M
 7-18 of this Act, including making available alternative water supplies;

7-19 (6) purchase, lease, reserve, option, or contract for
 7-20 alternative water supplies;

7-21 (7) enable the authority to meet administrative,
 7-22 operations, and maintenance expenses relating to the authority's
 7-23 groundwater reduction plan;

7-24 (8) pay the principal of and interest on notes, bonds,
 7-25 and other obligations issued or incurred or to be issued or incurred
 7-26 in connection with the exercise of the authority's rights, powers,
 7-27 privileges, authority, and functions under Sections 11 through 11M
 7-28 of this Act;

7-29 (9) satisfy all rate covenants relating to the
 7-30 issuance of notes, bonds, and other obligations; and

7-31 (10) establish, accumulate, maintain, or replenish
 7-32 one or more operating, debt service, contingency, or emergency
 7-33 reserve funds as deemed necessary by the authority.

7-34 (g) The rates, fees, user fees, and charges of the authority
 7-35 shall at all times be established and imposed in order to equitably
 7-36 apportion the costs of the authority's groundwater reduction plan
 7-37 among the participants, as nearly as practicable on a uniform
 7-38 basis, such that no special advantage or disadvantage is realized
 7-39 by a participant or class of participants because of proximity or
 7-40 access to alternative water supplies of the authority, geographical
 7-41 location, the time of inclusion within the groundwater reduction
 7-42 plan, the nature or extent of the water demands of the participant,
 7-43 or because the participant or class of participants is using
 7-44 groundwater, or alternative water supplies, or both.

7-45 (h) The authority may also impose rates, fees, user fees, or
 7-46 charges for the importation of water by a participant.

7-47 (i) To the extent that any fees, user fees, rates, charges,
 7-48 or special assessments collected by the authority from participants
 7-49 in the authority's groundwater reduction plan under this Act are
 7-50 used to pay or reimburse the authority or one or more of its
 7-51 operating divisions for the costs of developing, holding,
 7-52 purchasing, leasing, reserving, optioning, or contracting for
 7-53 alternative water supplies, the first and prior use of such
 7-54 alternative water supplies shall be for the benefit of the
 7-55 participants. Nothing in this Act shall be deemed or construed to
 7-56 limit the right and power of the authority or one or more of its
 7-57 other operating divisions to sell, option, or reserve water
 7-58 supplies that in the judgment of the authority are surplus to the
 7-59 needs of the participants, on a temporary, seasonal, periodic, or
 7-60 permanent basis, to other persons, so long as any net income or
 7-61 revenues from such sale, optioning, or reservation are first used
 7-62 to reimburse the participants for any actual costs, expenses, or
 7-63 carrying costs and interest paid by or on behalf of the participants
 7-64 for such water supplies.

7-65 (j) The rates, fees, user fees, and charges imposed by the
 7-66 authority under this section shall be at all times the lowest
 7-67 charges which are:

7-68 (1) consistent with good management practices by the
 7-69 authority;

(2) necessary and proper to pay or provide for full and timely payment of the items described in Subsection (f) of this section;

(3) consistent with the authority's statutory and constitutional duties and responsibilities; and

(4) just, reasonable, and nondiscriminatory.

(k) The charges imposed by the authority under this section shall be reviewed and adjusted from time to time by the authority in order to ensure that the charges are not in excess of the needs of the authority for the purposes of this section and that, other than amounts properly allocable to the payment of the general and administrative expenses of the authority relating to the groundwater reduction plan, such charges will not be used for any other corporate purpose of the authority.

Sec. 11G. ASSESSMENTS. (a) The board may undertake improvement projects or services that confer a special benefit on all or a defined part of the service area of one or more participants and may impose special assessments on property in the defined area, including property of a local government, based on the benefit conferred by the improvement project or service, to pay all or part of the costs of the project or service. The authority may finance with special assessments any improvement project or service authorized by this Act or other law, including water delivery systems or facilities or water supplies for recreational, environmental, aesthetic, or other nonconsumptive uses.

(b) Services or improvement projects may be financed with special assessments only after the board holds a public hearing on the advisability of the improvement project or service and the proposed assessments.

(c) The board shall publish notice of the hearing in a newspaper or newspapers with general circulation in Montgomery County. The publication must be made not later than the 30th day before the date of the hearing.

(d) Notice provided under this section must include:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement project or service;

(3) the estimated cost of the improvement project or service, including projected interest and associated financing costs; and

(4) the proposed method of assessment.

(e) Written notice containing the information required by Subsection (d) of this section shall be sent by certified mail, return receipt requested, not later than the 30th day before the date of the hearing, to each participant affected by such proposed assessment.

(f) Following a hearing conducted by the board on a proposed improvement project or service, the board shall make written findings and conclusions relating to the advisability of the improvement project or service, the nature of the improvement project or service, the estimated costs, and the area benefited.

(g) After conclusion of a hearing conducted by a hearings examiner on a proposed improvement project or service, the hearings examiner shall file with the board a written report of the examiner's findings and conclusions. The board may act upon such findings and conclusions at any meeting of the board at which notice of the meeting is given as provided by Chapter 551, Government Code, without the necessity for further notice.

(h) At adjournment of a hearing on proposed assessments, or after consideration of a hearings examiner's findings and conclusions on the proposed assessments, the board shall hear and rule on all objections to each proposed assessment. After the board hears and rules on such objections, the board, by order:

(1) shall fix the amount of and impose the assessments as special assessments on each affected property;

(2) shall specify the method of payment of the assessments; and

(3) may provide that such assessments, including interest, be paid in periodic installments or be subject to

prepayment charges if prepaid.

(i) Periodic installment payments of assessments must be in amounts sufficient to meet all costs for the associated improvement projects or services and must continue in effect for the period required to fully and timely pay for the services to be rendered or any bonds, notes, or other obligations issued or incurred by the authority to finance any associated improvement projects. The board may provide interest charges or penalties for failure to make timely payment and may impose a fee to cover delinquencies and expenses of collection.

(j) The board shall equitably apportion the cost of an improvement project or services, to be assessed against the property according to the special benefits that accrue to the property because of the improvement project or services. Among other classifications of benefits received, the board may assess costs according to the number of gallons of groundwater pumped from groundwater wells that are within or that serve such property and are subject to a groundwater reduction requirement imposed by the conservation district.

(k) A person that becomes a participant after the authority has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate. A participant may waive the right to notice and an assessment hearing for territory within its boundaries or service area added to the authority's groundwater reduction plan and may agree to the imposition and payment of assessments at an agreed rate.

(l) The board shall provide for the preparation of an assessment roll showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be:

(1) filed with the secretary of the board or another officer who performs similar functions; and

(2) open for public inspection.

(m) After notice and hearing in the manner required for an original assessment, the board may make supplemental assessments to correct omissions or mistakes or to address changed circumstances relating to the total costs of the improvement project or service or to covering delinquencies or costs of collection.

(n) The board may not impose or enforce a special assessment under this section unless:

(1) one or more participants request in writing that the authority undertake an improvement project or services that confer a special benefit on the requesting participant or participants; or

(2) one or more participants have failed to commence construction of facilities or provide for equipment necessary to accept water from alternative sources by a date that is 120 days or more after written notice from the authority of the availability of such water from alternative sources and of the rules of the authority requiring such action.

Sec. 11H. INTEREST AND PENALTIES; COLLECTIONS; LIEN.

(a) The board may require the payment of interest on any late or unpaid fees, user fees, rates, charges, and special assessments due the authority, but the interest rate may not exceed the interest rate permitted by Section 2251.025, Government Code. The board may also impose penalties for the failure to make a complete or timely payment to the authority. In addition, the board may exclude a participant, or the service area or territory or a groundwater well owned or controlled by a participant, from the authority's groundwater reduction plan for failure to make a complete or timely payment to the authority. The authority is entitled to reasonable attorney's fees incurred by the authority in enforcing its rules or in collecting any delinquent fees, user fees, rates, charges, and special assessments and any related penalties and interest.

(b) In addition to being the legal responsibility of a participant or well owner, the fees, user fees, rates, charges, and special assessments imposed by the authority under Sections 11F and 11G of this Act, any related penalties and interest, and collection expenses and reasonable attorney's fees incurred by the authority:

(1) are a first and prior lien against the groundwater well to which they apply; and

(2) are superior to any other lien or claim, other than a lien or claim for county, school district, or municipal ad valorem taxes.

(c) A lien under this section is effective from the date of the resolution or order of the board imposing the fee, user fee, rate, charge, or special assessment until paid. The board may enforce the lien in the same manner that a municipal utility district operating under Chapters 49 and 54, Water Code, may enforce an ad valorem tax lien against real property.

Sec. 11I. ADMINISTRATIVE PENALTY; INJUNCTION. (a) A person who violates a rule or order of the authority imposed under Sections 11 through 11M of this Act is subject to an administrative penalty, payable to the authority:

(1) in an amount of not more than \$5,000, as determined by the board, for each violation or each day of a continuing violation; or

(2) in an amount in excess of \$5,000, as determined by the board, necessary to recoup any administrative fines or penalties imposed against the authority resulting from one or more violations of the rules or orders of the authority by one or more participants.

(b) The authority may bring an action to recover the penalty in a district court in the county where the violation occurred.

(c) The authority may bring an action for injunctive relief in a district court in the county where a violation of a rule or order of the authority occurs or is threatened to occur. The court may grant to the authority, without bond or other undertaking, a prohibitory or mandatory injunction, as warranted by the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

(d) The authority may bring an action for an administrative penalty and injunctive relief in the same proceeding.

Sec. 11J. WAIVER OF IMMUNITY. Immunity from suit, judgment, or liability of any local government participating in the authority's groundwater reduction plan is hereby waived, but only to the limited extent necessary to permit the authority to exercise and enforce the rights, powers, privileges, and authority granted in Sections 11 through 11M of this Act against any such local government.

Sec. 11K. ELIGIBILITY FOR FINANCIAL ASSISTANCE. In addition to any other financial assistance program for which the authority may be eligible, the rights, powers, privileges, and authority conferred by Sections 11 through 11M of this Act shall be construed as authorizing the authority to receive financial assistance through the Groundwater District Loan Program administered by the Texas Water Development Board.

Sec. 11L. PUBLIC HEARINGS. The board by rule may establish the procedures for conducting public hearings and whether any hearing shall be conducted by the board or a hearings examiner. Any public hearing may be adjourned from time to time to a date, time, and location specified upon adjournment, without the necessity for further notice.

Sec. 11M. OPERATING DIVISION. (a) To facilitate the implementation of a groundwater reduction plan, the authority shall:

(1) establish and maintain a separate operating division of the authority with separate books of account that shall be audited annually;

(2) contract for, lease, or purchase, by and for the separate operating division, services, land, equipment, and facilities, including administrative and management services and facilities, and water and water byproducts, from the authority or one or more other operating divisions of the authority or from other persons; and

(3) allocate to the separate operating division a proportional share of the direct and indirect costs of the authority's general and administrative, managerial, accounting,

11-1 legal, fiscal, clerical, human resources, support services, and
 11-2 technical services.

11-3 (b) The separate operating division shall be operated for
 11-4 the exclusive benefit of the participants in the authority's
 11-5 groundwater reduction plan and not for the use or benefit of any
 11-6 water user outside the plan area, on a break-even basis, without
 11-7 profit or loss to the separate operating division, such that,
 11-8 except as provided in Subsection (i), Section 11F of this Act, the
 11-9 assets, income, responsibilities, liabilities, and debts of the
 11-10 separate operating division are not a charge against, an obligation
 11-11 or responsibility of, or an asset of or income source to any other
 11-12 operating division of the authority. Nothing in this subsection
 11-13 shall be deemed or construed to limit or restrict the right and
 11-14 power of the authority or one or more of its other operating
 11-15 divisions to:

11-16 (1) prepare, maintain, audit, or report its financial
 11-17 position on a consolidated basis with one or more other operating
 11-18 divisions of the authority;

11-19 (2) sell untreated water to such separate operating
 11-20 division from one or more other operating divisions of the
 11-21 authority or from other sources at generally prevailing and
 11-22 applicable rates adopted by the authority; or

11-23 (3) recover or be reimbursed the costs described in
 11-24 Subsection (a) of this section.

11-25 SECTION 2. Sections 10, 10a, 10b, 10c, and 10d, Chapter 426,
 11-26 Acts of the 45th Legislature, Regular Session, 1937, are repealed.

11-27 SECTION 3. Chapter 426, Acts of the 45th Legislature,
 11-28 Regular Session, 1937, is amended by adding Section 10A to read as
 11-29 follows:

11-30 Sec. 10A. PUBLIC SECURITIES. (a) In this section:

11-31 (1) "Public security" has the meaning assigned by
 11-32 Chapter 1201, Government Code.

11-33 (2) "Credit agreement," "security agreement," and
 11-34 "security interest" have the meanings assigned by Chapter 1208,
 11-35 Government Code.

11-36 (b) The authority is authorized to issue, sell, and deliver
 11-37 its public securities in the manner provided by this section or
 11-38 other law, including Chapter 1371, Government Code, to finance or
 11-39 pay for any project, improvement, program, plan, or purpose of the
 11-40 authority or to refund or refinance any public security.

11-41 (c) Public securities of the authority may be sold by the
 11-42 board or by delegation of authority to an officer or employee of the
 11-43 authority, at public or private sale, in such form, at such price,
 11-44 on such terms and conditions, and at such interest rate or rates,
 11-45 whether fixed, variable, floating, adjustable, or otherwise, as the
 11-46 board may determine appropriate, provided the net effective
 11-47 interest rate does not exceed the maximum rate allowed by law.

11-48 (d) Without the necessity for an election, public
 11-49 securities of the authority may be made payable from all or any
 11-50 designated portion or combination of any revenues, receipts, fees,
 11-51 user fees, rates, charges, special assessments, contract revenues,
 11-52 income, proceeds of refunding public securities, or funds from any
 11-53 other source of the authority other than ad valorem taxes. Public
 11-54 securities of the authority payable in whole or in part from ad
 11-55 valorem taxes may be issued only after approval by a majority of the
 11-56 qualified electors of all or a defined portion of the service area
 11-57 of the authority voting at an election held for that purpose. The
 11-58 board may call and conduct elections within all or a defined portion
 11-59 of the service area of the authority for that purpose.

11-60 (e) Public securities of the authority may be secured by
 11-61 means of a security agreement or credit agreement, or both, and with
 11-62 such security interest or interests, other than a mortgage interest
 11-63 on real property, and with such parity or priority of pledge and
 11-64 lien as the board may determine to be appropriate.

11-65 SECTION 4. The repeal of laws under Section 2 of this Act
 11-66 shall not affect the validity, enforceability, security, priority
 11-67 of lien, or other terms and conditions of any bonds, notes, or
 11-68 obligations of the San Jacinto River Authority issued or incurred
 11-69 prior to the effective date of this Act.

12-1 SECTION 5. The legislature finds that proper and legal
12-2 notice of the intention to introduce this Act, setting forth the
12-3 general substance of this Act, has been published as provided by
12-4 law, and such notice and a copy of this Act have been furnished to
12-5 all persons, agencies, officials, or entities to which they are
12-6 required to be furnished by the constitution and laws of this state,
12-7 including the governor, who has submitted the notice and Act to the
12-8 Texas Commission on Environmental Quality, and that the Texas
12-9 Commission on Environmental Quality has filed its recommendations
12-10 relating to this Act with the governor, lieutenant governor, and
12-11 speaker of the house of representatives within the required time,
12-12 and that all requirements of the constitution and laws of this state
12-13 and the rules and procedures of the legislature with respect to the
12-14 notice, introduction, and passage of this Act have been fulfilled
12-15 and accomplished.

12-16 SECTION 6. The legislature finds, determines, and declares
12-17 its intent that:

12-18 (1) the conservation and preservation of groundwater
12-19 resources in Montgomery County is essential to the economic
12-20 well-being and public health of the state as a whole;

12-21 (2) effective measures to reduce groundwater
12-22 withdrawals by large-volume groundwater users in Montgomery County
12-23 must be implemented immediately;

12-24 (3) the withdrawal of groundwater from shallow
12-25 aquifers for domestic or household use by individuals has no
12-26 significant negative impact on groundwater resources in Montgomery
12-27 County; and

12-28 (4) under no circumstances shall this Act be
12-29 interpreted, deemed, or construed to apply to or to authorize the
12-30 reduction of groundwater withdrawal by any person that owns or
12-31 operates a single groundwater well serving not more than two
12-32 single-family residential dwellings or units.

12-33 SECTION 7. The provisions of this Act are severable. If any
12-34 word, phrase, clause, sentence, section, provision, or part of this
12-35 Act is held invalid or unconstitutional, it shall not affect the
12-36 validity of the remaining portions, and it is declared to be the
12-37 legislative intent that this Act would have been passed as to the
12-38 remaining portions regardless of the invalidity of any part.

12-39 SECTION 8. This Act takes effect immediately if it receives
12-40 a vote of two-thirds of all the members elected to each house, as
12-41 provided by Section 39, Article III, Texas Constitution. If this
12-42 Act does not receive the vote necessary for immediate effect, this
12-43 Act takes effect September 1, 2009.

12-44 * * * * *