

Amend SB 313 (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 35.012, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

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

~~[(1)]~~ create one or more new districts under Section 36.0151~~[+~~

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

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

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

(1) the two areas share a common boundary and one or more common aquifers; and

(2) the commission determines that a district composed of territory in the two areas will result in more effective or efficient groundwater management than other options available to the commission.

SECTION 2. Section 35.013, Water Code, is amended by amending Subsections (b), (c), (e), (f), (g), and (h) and adding Subsections (b-1) and (g-1) to read as follows:

(b) The commission shall submit a copy of the order to the board of the district to which it is recommending the priority groundwater management area be added. Not later than the 120th day after the date of receiving the copy, the ~~[The]~~ board shall vote on the addition of the priority groundwater management area to the district and shall advise the commission of the outcome.

(b-1) If the district described by Subsection (b) has not approved an ad valorem tax on the date of the commission's order

issued under Section 35.008 and the board of the district votes to accept the addition of the priority groundwater management area to the district, the board shall enter an order adding the territory in the district.

(c) If the district described by Subsection (b) has approved an ad valorem tax on the date of the commission's order issued under Section 35.008 and the board votes to accept the addition of the priority groundwater management area to the district, the board:

(1) shall enter an order adding the territory in the district;

(2) may request the Texas AgriLife [Agricultural] Extension Service, the commission, and the Texas Water Development Board, with the cooperation and assistance of the Department of Agriculture and other state agencies, to administer an educational program to inform the residents of the status of the area's water resources, the addition of territory to the district, and [management] options for financing management of the groundwater resources of the [including possible annexation into a] district;

(3) ~~[(2)]~~ shall call an election to be held not later than the 270th day after the date of the board's vote under Subsection (b) within the priority groundwater management area, or portion of the priority groundwater management area, as delineated by the commission to determine if the added area will assume a proportional share of the debts or taxes of the district [priority groundwater management area will be added to the district]; and

(4) ~~[(3)]~~ shall designate election precincts and polling places for the elections in the order calling an election under this subsection.

(e) The ballots for the election shall be printed to provide for voting for or against the proposition: "The ~~[inclusion of _____ (briefly describe priority groundwater management area) in the _____ District.]~~ If the district has outstanding debts or taxes, the proposition shall include the following language: ~~"and]~~ assumption by the _____ (briefly describe the territory added under Subsection (c)(1)) ~~[described area]~~ of a proportional share of the debts or taxes of the _____ District instead of the assessment of fees in the described area to

fund the groundwater management activities of the district."

(f) Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the board, and the board shall canvass the returns for the election within the priority groundwater management area and declare the results. If a majority of the voters in the priority groundwater management area voting on the proposition vote in favor of the proposition, the board shall declare that the priority groundwater management area assumes a proportional share of the debts or taxes of ~~[is added to]~~ the district. If a majority of the voters in the priority groundwater management area voting on the proposition do not vote in favor of the proposition ~~[against adding the priority groundwater management area to the district]~~, the board shall adopt rules to implement Subsection (g-1) ~~[declare that the priority groundwater management area is not added to the district]~~. The board shall file a copy of the election results with the commission.

(g) The ~~[If the voters approve adding the priority groundwater management area to the district, the]~~ board of the district to which the priority groundwater management area is added shall provide reasonable representation on that board compatible with the district's existing scheme of representation. Not later than the 30th day after the date on which the board declares that the priority groundwater management area is added to the district, the board of the existing district shall appoint a person or persons to represent the area until the next regularly scheduled election or appointment of directors.

(g-1) If the voters do not approve the assumption of a proportional share of the debts or taxes of a district under Subsection (e), the board shall assess production fees in the added territory based on the amount of water authorized by permit to be withdrawn from a well or the amount actually withdrawn. A district may use revenue generated by the fees for any district purpose. Production fees may not exceed:

(1) \$2 per acre-foot payable annually for water used for agricultural use; or

(2) 30 cents per 1,000 gallons payable annually for water used for any other purpose.

(h) Not later than the first anniversary of the date on which [~~if~~] the proposition is defeated, or [~~if~~] the board of the existing district votes not to accept the addition of the area to the district, [~~then~~] the commission shall, except as provided under Subsection (i):

(1)[7] create under Section 36.0151 one or more districts covering the priority groundwater management area; or

(2) recommend the area be added to another existing district as provided by this section [~~not later than the first anniversary of the date on which the proposition is defeated or the board votes not to accept the area~~].

SECTION 3. Section 36.0151, Water Code, is amended by amending Subsection (a) and adding Subsections (c), (d), (e), and (f) to read as follows:

(a) If the commission is required to create a district under Section 35.012(b), it shall, without an evidentiary hearing, issue an order creating the district and shall provide in its order that temporary directors be appointed under Section 36.0161 [~~36.016~~] and that an election be called by the temporary directors to authorize the district to assess taxes and to elect permanent directors.

(c) The commission may amend the territory in an order issued under Section 35.008 or this section to adjust for areas that, in the time between when the order was issued under Section 35.008 and the order is issued under this section, have:

(1) been added to an existing district or created as a separate district; or

(2) not been added to an existing district or created as a separate district.

(d) In making a modification under Subsection (c), the commission may recommend:

(1) creation of a new district in the area; or

(2) that the area be added to a different district.

(e) Except as provided by Section 35.013(h), a change in the order under Subsection (c) does not affect a deadline under Section 35.012 or 35.013.

(f) The commission may not create a groundwater conservation district under this section in a county:

(1) in which total surface water use is more than 50 times the total groundwater production;

(2) that is located in a priority groundwater management area; and

(3) that has a population greater than 2.3 million. To the extent of a conflict between this section and Section 35.012, this section controls.

SECTION 4. Section 36.0171(h), Water Code, is amended to read as follows:

(h) If the majority of the votes cast at the election are against the levy of a maintenance tax, the district shall set production [permit] fees in accordance with Section 35.013(g-1) to pay for the district's regulation of groundwater in the district, including fees based on the amount of water to be withdrawn from a well.

SECTION 5. (a) The changes in law made by this Act apply to any territory in a priority groundwater management area that is not included in a groundwater conservation district on the effective date of this Act.

(b) Not later than September 1, 2012, the Texas Commission on Environmental Quality shall create a district or add territory to an existing district for any territory for which the commission has issued an order recommending creation of a district or addition of territory to an existing district under Section 35.008, Water Code, before the effective date of this Act, unless the commission determines that the territory is not suitable under Section 35.013(i), Water Code.

SECTION 6. 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, 2011.