

By: Hinojosa, Hegar
(Ritter)

S.B. No. 660

Substitute the following for S.B. No. 660:

By: Miller of Comal

C.S.S.B. No. 660

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the review and functions of the Texas Water Development
3 Board, including the functions of the board and related entities in
4 connection with the process for establishing and appealing desired
5 future conditions in a groundwater management area.

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

7 SECTION 1. SECTION 6.013, Water Code, is amended to read as
8 follows:

9 Sec. 6.013. SUNSET PROVISION. The Texas Water Development
10 Board is subject to review under Chapter 325, Government Code
11 (Texas Sunset Act), but is not abolished under that chapter. The
12 board shall be reviewed during the period in which state agencies
13 abolished in 2023 [~~2011~~] and every 12th year after 2023 [~~2011~~] are
14 reviewed.

15 SECTION 2. Subchapter D, Chapter 6, Water Code, is amended
16 by adding Sections 6.113, 6.114, and 6.115 to read as follows:

17 Sec. 6.113. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE
18 RESOLUTION. (a) The board shall develop and implement a policy to
19 encourage the use of:

20 (1) negotiated rulemaking procedures under Chapter
21 2008, Government Code, for the adoption of board rules; and

22 (2) appropriate alternative dispute resolution
23 procedures under Chapter 2009, Government Code, to assist in the
24 resolution of internal and external disputes under the board's

1 jurisdiction.

2 (b) The board's procedures relating to alternative dispute
3 resolution must conform, to the extent possible, to any model
4 guidelines issued by the State Office of Administrative Hearings
5 for the use of alternative dispute resolution by state agencies.

6 (c) The board shall:

7 (1) coordinate the implementation of the policy
8 adopted under Subsection (a);

9 (2) provide training as needed to implement the
10 procedures for negotiated rulemaking or alternative dispute
11 resolution; and

12 (3) collect data concerning the effectiveness of those
13 procedures.

14 Sec. 6.114. FINANCIAL ASSISTANCE PROGRAMS: DEFAULT,
15 REMEDIES, AND ENFORCEMENT. (a) In this section:

16 (1) "Default" means:

17 (A) default in payment of the principal of or
18 interest on bonds, securities, or other obligations purchased or
19 acquired by the board;

20 (B) failure to perform any covenant related to a
21 bond, security, or other obligation purchased or acquired by the
22 board;

23 (C) a failure to perform any of the terms of a
24 loan, grant, or other financing agreement; or

25 (D) any other failure to perform an obligation,
26 breach of a term of an agreement, or default as provided by any
27 proceeding or agreement evidencing an obligation or agreement of a

1 recipient, beneficiary, or guarantor of financial assistance
2 provided by the board.

3 (2) "Financial assistance program recipient" means a
4 recipient or beneficiary of funds administered by the board under
5 this code, including a borrower, grantee, guarantor, or other
6 beneficiary.

7 (b) In the event of a default and on request by the board,
8 the attorney general shall seek:

9 (1) a writ of mandamus to compel a financial
10 assistance program recipient or the financial assistance program
11 recipient's officers, agents, and employees to cure the default;
12 and

13 (2) any other legal or equitable remedy the board and
14 the attorney general consider necessary and appropriate.

15 (c) A proceeding authorized by this section shall be brought
16 and venue is in a district court in Travis County.

17 (d) In a proceeding under this section, the attorney general
18 may recover reasonable attorney's fees, investigative costs, and
19 court costs incurred on behalf of the state in the proceeding in the
20 same manner as provided by general law for a private litigant.

21 Sec. 6.115. RECEIVERSHIP. (a) In this section, "financial
22 assistance program recipient" has the meaning assigned by Section
23 6.114.

24 (b) In addition to the remedies available under Section
25 6.114, at the request of the board, the attorney general shall bring
26 suit in a district court in Travis County for the appointment of a
27 receiver to collect the assets and carry on the business of a

1 financial assistance program recipient if:

2 (1) the action is necessary to cure a default by the
3 recipient; and

4 (2) the recipient is not:

5 (A) a municipality or county; or

6 (B) a district or authority created under Section
7 52, Article III, or Section 59, Article XVI, Texas Constitution.

8 (c) The court shall vest a receiver appointed by the court
9 with any power or duty the court finds necessary to cure the
10 default, including the power or duty to:

11 (1) perform audits;

12 (2) raise wholesale or retail water or sewer rates or
13 other fees;

14 (3) fund reserve accounts;

15 (4) make payments of the principal of or interest on
16 bonds, securities, or other obligations purchased or acquired by
17 the board; and

18 (5) take any other action necessary to prevent or to
19 remedy the default.

20 (d) The receiver shall execute a bond in an amount to be set
21 by the court to ensure the proper performance of the receiver's
22 duties.

23 (e) After appointment and execution of bond, the receiver
24 shall take possession of the books, records, accounts, and assets
25 of the financial assistance program recipient specified by the
26 court. Until discharged by the court, the receiver shall perform
27 the duties that the court directs and shall strictly observe the

1 final order involved.

2 (f) On a showing of good cause by the financial assistance
3 program recipient, the court may dissolve the receivership.

4 SECTION 3. Section 6.154, Water Code, is amended to read as
5 follows:

6 Sec. 6.154. COMPLAINT FILE. (a) The board shall maintain
7 a system to promptly and efficiently act on complaints [~~file on each~~
8 ~~written complaint~~] filed with the board. The board shall maintain
9 information about parties to the complaint, [~~file must include:~~

- 10 ~~[(1) the name of the person who filed the complaint;~~
11 ~~[(2) the date the complaint is received by the board;~~
12 ~~[(3)] the subject matter of the complaint, [+~~
13 ~~[(4) the name of each person contacted in relation to~~
14 ~~the complaint;~~
15 ~~[(5)] a summary of the results of the review or~~
16 ~~investigation of the complaint, and the complaint's disposition[+~~
17 ~~and~~
18 ~~[(6) an explanation of the reason the file was closed,~~
19 ~~if the agency closed the file without taking action other than to~~
20 ~~investigate the complaint].~~

21 (b) The board shall make information available describing
22 its [~~provide to the person filing the complaint and to each person~~
23 ~~who is a subject of the complaint a copy of the board's policies~~
24 ~~and] procedures for [~~relating to~~] complaint investigation and
25 resolution.~~

26 SECTION 4. Section 6.155, Water Code, is amended to read as
27 follows:

1 Sec. 6.155. NOTICE OF COMPLAINT. The board~~[, at least~~
2 ~~quarterly until final disposition of the complaint,~~] shall
3 periodically notify the ~~[person filing the]~~ complaint parties ~~[and~~
4 ~~each person who is a subject of the complaint]~~ of the status of the
5 complaint until final disposition ~~[investigation unless the notice~~
6 ~~would jeopardize an undercover investigation].~~

7 SECTION 5. Section 11.1271, Water Code, is amended by
8 amending Subsection (f) and adding Subsection (g) to read as
9 follows:

10 (f) The commission shall adopt rules:
11 (1) establishing criteria and deadlines for
12 submission of water conservation plans, including any required
13 amendments, and for submission of implementation reports; and
14 (2) requiring the uniform water use calculation system
15 developed under Section 16.403 to be used in the water conservation
16 plans required by this section.

17 (g) At a minimum, rules adopted under Subsection (f)(2) must
18 require an entity to report the most detailed level of municipal
19 water use data currently available to the entity. The commission
20 may not adopt a rule that requires an entity to report municipal
21 water use data that is more detailed than the entity's billing
22 system is capable of producing.

23 SECTION 6. Section 16.021, Water Code, is amended by
24 amending Subsections (c), (d), and (e) and adding Subsections (d-1)
25 and (g) to read as follows:

26 (c) The executive administrator shall designate the
27 director of the Texas Natural Resources Information System to serve

1 as the state geographic information officer. The state geographic
2 information officer shall:

3 (1) coordinate the acquisition and use of
4 high-priority imagery and data sets;

5 (2) establish, support, and disseminate authoritative
6 statewide geographic data sets;

7 (3) support geographic data needs of emergency
8 management responders during emergencies;

9 (4) monitor trends in geographic information
10 technology; and

11 (5) support public access to state geographic data and
12 resources [~~The Texas Geographic Information Council (TGIC) is~~
13 ~~created to provide strategic planning and coordination in the~~
14 ~~acquisition and use of geo-spatial data and related technologies in~~
15 ~~the State of Texas. The executive administrator and the executive~~
16 ~~director of the Department of Information Resources shall designate~~
17 ~~entities to be members of the TGIC. The chief administrative~~
18 ~~officer of each member entity shall select one representative to~~
19 ~~serve on the TGIC. The duties of the TGIC shall include providing~~
20 ~~guidance to the executive administrator in carrying out the~~
21 ~~executive administrator's duties under this section and guidance to~~
22 ~~the Department of Information Resources for development of rules~~
23 ~~related to statewide geo-spatial data and technology standards].~~

24 (d) Not later than December 1, 2016, and before the end of
25 each successive five-year period after that date, the board shall
26 submit to the governor, lieutenant governor, and speaker of the
27 house of representatives a report that contains recommendations

1 regarding:

2 (1) statewide geographic data acquisition needs and
3 priorities, including updates on progress in maintaining the
4 statewide digital base maps described by Subsection (e)(6);

5 (2) policy initiatives to address the acquisition,
6 use, storage, and sharing of geographic data across the state;

7 (3) funding needs to acquire data, implement
8 technologies, or pursue statewide policy initiatives related to
9 geographic data; and

10 (4) opportunities for new initiatives to improve the
11 efficiency, effectiveness, or accessibility of state government
12 operations through the use of geographic data [~~Member entities of~~
13 ~~the TCIC that are state agencies shall, and member entities that are~~
14 ~~not state agencies may, provide information to the TCIC about their~~
15 ~~investments in geographic information and plans for its use. Not~~
16 ~~later than November 1 of each even-numbered year, the TCIC shall~~
17 ~~prepare and provide to the board, the Department of Information~~
18 ~~Resources, the governor, and the legislature a report that:~~

19 [~~(1) describes the progress made by each TCIC member~~
20 ~~entity toward achieving geographic information system goals and in~~
21 ~~implementing geographic information systems initiatives; and~~

22 [~~(2) recommends additional initiatives to improve the~~
23 ~~state's geographic information systems programs]~~.

24 (d-1) The board shall consult with stakeholders in
25 preparing the report required by Subsection (d).

26 (e) The [~~Under the guidance of the TCIC, the~~] executive
27 administrator shall:

1 (1) further develop the Texas Natural Resources
2 Information System by promoting and providing for effective
3 acquisition, archiving, documentation, indexing, and dissemination
4 of natural resource and related digital and nondigital data and
5 information;

6 (2) obtain information in response to disagreements
7 regarding names and name spellings for natural and cultural
8 features in the state and provide this information to the Board on
9 Geographic Names of the United States Department of the Interior;

10 (3) make recommendations to the Board on Geographic
11 Names of the United States Department of the Interior for naming any
12 natural or cultural feature subject to the limitations provided by
13 Subsection (f);

14 (4) make recommendations to the Department of
15 Information Resources to adopt and promote standards that
16 facilitate sharing of digital natural resource data and related
17 socioeconomic data among federal, state, and local governments and
18 other interested parties;

19 (5) acquire and disseminate natural resource and
20 related socioeconomic data describing the Texas-Mexico border
21 region; and

22 (6) coordinate, conduct, and facilitate the
23 development, maintenance, and use of mutually compatible statewide
24 digital base maps depicting natural resources and man-made
25 features.

26 (g) The board may establish one or more advisory committees
27 to assist the board or the executive administrator in implementing

1 this section, including by providing information in connection with
2 the preparation of the report required by Subsection (d). In
3 appointing members to an advisory committee, the board shall
4 consider including representatives of:

- 5 (1) state agencies that are major users of geographic
6 data;
- 7 (2) federal agencies;
- 8 (3) local governments; and
- 9 (4) the Department of Information Resources.

10 SECTION 7. Subsection (b), Section 16.023, Water Code, is
11 amended to read as follows:

- 12 (b) The account may be appropriated only to the board to:
 - 13 (1) develop, administer, and implement the strategic
14 mapping program;
 - 15 (2) provide grants to political subdivisions for
16 projects related to the development, use, and dissemination of
17 digital, geospatial information; and
 - 18 (3) administer, implement, and operate other programs
19 of the Texas Natural Resources Information System, including:
 - 20 (A) the operation of a Texas-Mexico border region
21 information center for the purpose of implementing Section
22 16.021(e)(5);
 - 23 (B) the acquisition, storage, and distribution
24 of historical maps, photographs, and paper map products;
 - 25 (C) the maintenance and enhancement of
26 information technology; and
 - 27 (D) the production, storage, and distribution of

1 other digital base maps, as determined by the executive
2 administrator [~~or a state agency that is a member of the Texas~~
3 ~~Geographic Information Council~~].

4 SECTION 8. Section 16.051, Water Code, is amended by adding
5 Subsections (a-1) and (a-2) to read as follows:

6 (a-1) The state water plan must include:

7 (1) an evaluation of the state's progress in meeting
8 future water needs, including an evaluation of the extent to which
9 water management strategies and projects implemented after the
10 adoption of the preceding state water plan have affected that
11 progress; and

12 (2) an analysis of the number of projects included in
13 the preceding state water plan that received financial assistance
14 from the board.

15 (a-2) To assist the board in evaluating the state's progress
16 in meeting future water needs, the board may obtain implementation
17 data from the regional water planning groups.

18 SECTION 9. Subsections (c) and (e), Section 16.053, Water
19 Code, are amended to read as follows:

20 (c) No later than 60 days after the designation of the
21 regions under Subsection (b), the board shall designate
22 representatives within each regional water planning area to serve
23 as the initial coordinating body for planning. The initial
24 coordinating body may then designate additional representatives to
25 serve on the regional water planning group. The initial
26 coordinating body shall designate additional representatives if
27 necessary to ensure adequate representation from the interests

1 comprising that region, including the public, counties,
2 municipalities, industries, agricultural interests, environmental
3 interests, small businesses, electric generating utilities, river
4 authorities, water districts, and water utilities. The regional
5 water planning group shall maintain adequate representation from
6 those interests. In addition, the groundwater conservation
7 districts located in each management area, as defined by Section
8 36.001, located in the regional water planning area shall appoint
9 one representative of a groundwater conservation district located
10 in the management area and in the regional water planning area to
11 serve on the regional water planning group. In addition,
12 representatives of the board, the Parks and Wildlife Department,
13 and the Department of Agriculture shall serve as ex officio members
14 of each regional water planning group.

15 (e) Each regional water planning group shall submit to the
16 development board a regional water plan that:

17 (1) is consistent with the guidance principles for the
18 state water plan adopted by the development board under Section
19 16.051(d);

20 (2) provides information based on data provided or
21 approved by the development board in a format consistent with the
22 guidelines provided by the development board under Subsection (d);

23 (2-a) is consistent with the desired future conditions
24 adopted under Section 36.108 for the relevant aquifers located in
25 the regional water planning area as of the date the board most
26 recently adopted a state water plan under Section 16.051 or, at the
27 option of the regional water planning group, established subsequent

1 to the adoption of the most recent plan;

2 (3) identifies:

3 (A) each source of water supply in the regional
4 water planning area, including information supplied by the
5 executive administrator on the amount of managed available
6 groundwater in accordance with the guidelines provided by the
7 development board under Subsections (d) and (f);

8 (B) factors specific to each source of water
9 supply to be considered in determining whether to initiate a
10 drought response;

11 (C) actions to be taken as part of the response;
12 and

13 (D) existing major water infrastructure
14 facilities that may be used for interconnections in the event of an
15 emergency shortage of water;

16 (4) has specific provisions for water management
17 strategies to be used during a drought of record;

18 (5) includes but is not limited to consideration of
19 the following:

20 (A) any existing water or drought planning
21 efforts addressing all or a portion of the region;

22 (B) approved groundwater conservation district
23 management plans and other plans submitted under Section 16.054;

24 (C) all potentially feasible water management
25 strategies, including but not limited to improved conservation,
26 reuse, and management of existing water supplies, conjunctive use,
27 acquisition of available existing water supplies, and development

1 of new water supplies;

2 (D) protection of existing water rights in the
3 region;

4 (E) opportunities for and the benefits of
5 developing regional water supply facilities or providing regional
6 management of water supply facilities;

7 (F) appropriate provision for environmental
8 water needs and for the effect of upstream development on the bays,
9 estuaries, and arms of the Gulf of Mexico and the effect of plans on
10 navigation;

11 (G) provisions in Section 11.085(k)(1) if
12 interbasin transfers are contemplated;

13 (H) voluntary transfer of water within the region
14 using, but not limited to, regional water banks, sales, leases,
15 options, subordination agreements, and financing agreements; and

16 (I) emergency transfer of water under Section
17 11.139, including information on the part of each permit, certified
18 filing, or certificate of adjudication for nonmunicipal use in the
19 region that may be transferred without causing unreasonable damage
20 to the property of the nonmunicipal water rights holder;

21 (6) identifies river and stream segments of unique
22 ecological value and sites of unique value for the construction of
23 reservoirs that the regional water planning group recommends for
24 protection under Section 16.051;

25 (7) assesses the impact of the plan on unique river and
26 stream segments identified in Subdivision (6) if the regional water
27 planning group or the legislature determines that a site of unique

1 ecological value exists; and

2 (8) describes the impact of proposed water projects on
3 water quality.

4 SECTION 10. Section 16.402, Water Code, is amended by
5 amending Subsection (e) and adding Subsection (f) to read as
6 follows:

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

8 (1) identifying the minimum requirements and
9 submission deadlines for the annual reports required by Subsection
10 (b); ~~and~~

11 (2) requiring the uniform water use calculation system
12 developed under Section 16.403 to be used in the reports required by
13 Subsection (b); and

14 (3) providing for the enforcement of this section and
15 rules adopted under this section.

16 (f) At a minimum, rules adopted under Subsection (e)(2) must
17 require an entity to report the most detailed level of municipal
18 water use data currently available to the entity. The board and
19 commission may not adopt a rule that requires an entity to report
20 municipal water use data that is more detailed than the entity's
21 billing system is capable of producing.

22 SECTION 11. Subchapter K, Chapter 16, Water Code, is
23 amended by adding Section 16.403 to read as follows:

24 Sec. 16.403. UNIFORM WATER USE CALCULATION SYSTEM. The
25 board and the commission, in consultation with the Water
26 Conservation Advisory Council, shall develop a uniform system for
27 calculating municipal water use in gallons per capita per day to be

1 used by each entity required to submit a water conservation plan to
2 the board or the commission under this code.

3 SECTION 12. Section 17.003, Water Code, is amended by
4 adding Subsections (c), (d), (e), and (f) to read as follows:

5 (c) Water financial assistance bonds that have been
6 authorized but have not been issued are not considered to be state
7 debt payable from the general revenue fund for purposes of Section
8 49-j, Article III, Texas Constitution, until the legislature makes
9 an appropriation from the general revenue fund to the board to pay
10 the debt service on the bonds.

11 (d) In requesting approval for the issuance of bonds under
12 this chapter, the executive administrator shall certify to the bond
13 review board whether the bonds are reasonably expected to be paid
14 from:

- 15 (1) the general revenues of the state; or
16 (2) revenue sources other than the general revenues of
17 the state.

18 (e) The bond review board shall verify whether debt service
19 on bonds to be issued by the board under this chapter is state debt
20 payable from the general revenues of the state, in accordance with
21 the findings made by the board in the resolution authorizing the
22 issuance of the bonds and the certification provided by the
23 executive administrator under Subsection (d).

24 (f) Bonds issued under this chapter that are designed to be
25 paid from the general revenues of the state shall cease to be
26 considered bonds payable from those revenues if:

- 27 (1) the bonds are backed by insurance or another form

1 of guarantee that ensures payment from a source other than the
2 general revenues of the state; or

3 (2) the board demonstrates to the satisfaction of the
4 bond review board that the bonds no longer require payment from the
5 general revenues of the state and the bond review board so certifies
6 to the Legislative Budget Board.

7 SECTION 13. Section 17.9022, Water Code, is amended to read
8 as follows:

9 Sec. 17.9022. FINANCING OF GRANT OR LOAN FOR POLITICAL
10 SUBDIVISION; DEFAULT; VENUE. ~~[(a)]~~ The board may make a loan or
11 grant available to a political subdivision in any manner the board
12 considers economically feasible, including purchase of bonds or
13 securities of the political subdivision or execution of a loan or
14 grant agreement with the political subdivision. The board may not
15 purchase bonds or securities that have not been approved by the
16 attorney general and registered by the comptroller.

17 ~~[(b) In the event of a default in payment of the principal of~~
18 ~~or interest on bonds or securities purchased by the board, or any~~
19 ~~other default as defined in the proceedings or indentures~~
20 ~~authorizing the issuance of bonds, or a default of any of the terms~~
21 ~~of a loan agreement, the attorney general shall seek a writ of~~
22 ~~mandamus or other legal remedy to compel the political subdivision~~
23 ~~or its officers, agents, and employees to cure the default by~~
24 ~~performing the duties they are legally obligated to perform. The~~
25 ~~proceedings shall be brought and venue is in a district court in~~
26 ~~Travis County. This subsection is cumulative of any other rights or~~
27 ~~remedies to which the board may be entitled.]~~

1 SECTION 14. Section 36.001, Water Code, is amended by
2 adding Subdivision (30) to read as follows:

3 (30) "Desired future condition" means a quantitative
4 description, adopted in accordance with Section 36.108, of the
5 desired condition of the groundwater resources in a management area
6 at one or more specified future times.

7 SECTION 15. Section 36.063, Water Code, is amended to read
8 as follows:

9 Sec. 36.063. NOTICE OF MEETINGS. (a) Except as provided by
10 Subsections (b) and (c), notice [~~Notice~~] of meetings of the board
11 shall be given as set forth in the Open Meetings Act, Chapter 551,
12 Government Code. Neither failure to provide notice of a regular
13 meeting nor an insubstantial defect in notice of any meeting shall
14 affect the validity of any action taken at the meeting.

15 (b) At least 10 days before a hearing under Section
16 36.108(d-2) or a meeting at which a district will adopt a desired
17 future condition under Section 36.108(d-4), the board must post
18 notice that includes:

19 (1) the proposed desired future conditions and a list
20 of any other agenda items;

21 (2) the date, time, and location of the meeting or
22 hearing;

23 (3) the name, telephone number, and address of the
24 person to whom questions or requests for additional information may
25 be submitted;

26 (4) the names of the other districts in the district's
27 management area; and

1 (5) information on how the public may submit comments.

2 (c) Except as provided by Subsection (b), notice of a
3 hearing described by Subsection (b) must be provided in the manner
4 prescribed for a rulemaking hearing under Section 36.101(d).

5 SECTION 16. Subsections (a) and (e), Section 36.1071, Water
6 Code, are amended to read as follows:

7 (a) Following notice and hearing, the district shall, in
8 coordination with surface water management entities on a regional
9 basis, develop a comprehensive management plan which addresses the
10 following management goals, as applicable:

- 11 (1) providing the most efficient use of groundwater;
12 (2) controlling and preventing waste of groundwater;
13 (3) controlling and preventing subsidence;
14 (4) addressing conjunctive surface water management
15 issues;
16 (5) addressing natural resource issues;
17 (6) addressing drought conditions;
18 (7) addressing conservation, recharge enhancement,
19 rainwater harvesting, precipitation enhancement, or brush control,
20 where appropriate and cost-effective; and
21 (8) addressing [~~in a quantitative manner~~] the desired
22 future conditions adopted by the district under Section 36.108 [~~of~~
23 ~~the groundwater resources~~].

24 (e) In the management plan described under Subsection (a),
25 the district shall:

- 26 (1) identify the performance standards and management
27 objectives under which the district will operate to achieve the

1 management goals identified under Subsection (a);

2 (2) specify, in as much detail as possible, the
3 actions, procedures, performance, and avoidance that are or may be
4 necessary to effect the plan, including specifications and proposed
5 rules;

6 (3) include estimates of the following:

7 (A) managed available groundwater in the
8 district based on the desired future condition adopted
9 [~~established~~] under Section 36.108;

10 (B) the amount of groundwater being used within
11 the district on an annual basis;

12 (C) the annual amount of recharge from
13 precipitation, if any, to the groundwater resources within the
14 district;

15 (D) for each aquifer, the annual volume of water
16 that discharges from the aquifer to springs and any surface water
17 bodies, including lakes, streams, and rivers;

18 (E) the annual volume of flow into and out of the
19 district within each aquifer and between aquifers in the district,
20 if a groundwater availability model is available;

21 (F) the projected surface water supply in the
22 district according to the most recently adopted state water plan;
23 and

24 (G) the projected total demand for water in the
25 district according to the most recently adopted state water plan;
26 and

27 (4) consider the water supply needs and water

1 management strategies included in the adopted state water plan.

2 SECTION 17. Subchapter D, Chapter 36, Water Code, is
3 amended by amending Section 36.108 and adding Sections 36.1081
4 through 36.1087 to read as follows:

5 Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) In
6 this section:

7 (1) "Development [,"development] board" means the
8 Texas Water Development Board.

9 (2) "District representative" means the presiding
10 officer or the presiding officer's designee for any district
11 located wholly or partly in the management area.

12 (b) If two or more districts are located within the
13 boundaries of the same management area, each district shall prepare
14 a comprehensive management plan as required by Section 36.1071
15 covering that district's respective territory. On completion and
16 approval of the plan as required by Section 36.1072, each district
17 shall forward a copy of the new or revised management plan to the
18 other districts in the management area. The boards of the districts
19 shall consider the plans individually and shall compare them to
20 other management plans then in force in the management area.

21 (c) The district representatives [The presiding officer, or
22 the presiding officer's designee, of each district located in whole
23 or in part in the management area] shall meet at least annually to
24 conduct joint planning with the other districts in the management
25 area and to review the management plans, the [and] accomplishments
26 of [for] the management area, and proposals to adopt new or amend
27 existing desired future conditions. In reviewing the management

1 plans, the districts shall consider:

2 (1) the goals of each management plan and its impact on
3 planning throughout the management area;

4 (2) the effectiveness of the measures established by
5 each management plan for conserving and protecting groundwater and
6 preventing waste, and the effectiveness of these measures in the
7 management area generally;

8 (3) any other matters that the boards consider
9 relevant to the protection and conservation of groundwater and the
10 prevention of waste in the management area; and

11 (4) the degree to which each management plan achieves
12 the desired future conditions established during the joint planning
13 process.

14 (d) Not later than September 1, 2010, and every five years
15 thereafter, the districts shall consider groundwater availability
16 models and other data or information for the management area and
17 shall propose for adoption [~~establish~~] desired future conditions
18 for the relevant aquifers within the management area. Before
19 voting on the proposed [~~In establishing the~~] desired future
20 conditions of the aquifers under Subsection (d-2) [~~this section~~],
21 the districts shall consider:

22 (1) aquifer uses or conditions within the management
23 area, including conditions that differ substantially from one
24 geographic area to another;

25 (2) the water supply needs and water management
26 strategies included in the state water plan;

27 (3) hydrological conditions, including for each

1 aquifer in the management area the total estimated recoverable
2 storage as provided by the executive administrator, and the average
3 annual recharge, inflows, and discharge;

4 (4) other environmental impacts, including impacts on
5 spring flow and other interactions between groundwater and surface
6 water;

7 (5) the impact on subsidence;

8 (6) socioeconomic impacts reasonably expected to
9 occur;

10 (7) the impact on the interests and rights in private
11 property, including ownership and the rights of management area
12 landowners and their lessees and assigns in groundwater as
13 recognized under Section 36.002;

14 (8) whether the desired future conditions are
15 physically possible; and

16 (9) any other information relevant to the specific
17 desired future conditions [~~uses or conditions of an aquifer within~~
18 ~~the management area that differ substantially from one geographic~~
19 ~~area to another~~].

20 (d-1) The districts may establish different desired future
21 conditions for:

22 (1) each aquifer, subdivision of an aquifer, or
23 geologic strata located in whole or in part within the boundaries of
24 the management area; or

25 (2) each geographic area overlying an aquifer in whole
26 or in part or subdivision of an aquifer within the boundaries of the
27 management area.

1 (d-2) [~~(d-1)~~] The desired future conditions proposed
2 [~~established~~] under Subsection (d) must provide a balance between
3 the highest practicable level of groundwater production and the
4 conservation, preservation, protection, recharging, and prevention
5 of waste of groundwater and control of subsidence in the management
6 area. This subsection does not prohibit the establishment of
7 desired future conditions that provide for the reasonable long-term
8 management of groundwater resources consistent with the management
9 goals under Section 36.1071(a). The desired future conditions
10 proposed under Subsection (d) must be approved [~~adopted~~] by a
11 two-thirds vote of all the district representatives for
12 distribution to the districts in the management area. A period of
13 not less than 30 or more than 90 days for public comments begins on
14 the day the proposed desired future conditions are mailed to the
15 districts. During the public comment period and after posting
16 notice as required by Section 36.063, each district shall hold a
17 public hearing on the proposed desired future conditions relevant
18 to that district. During the public comment period, the district
19 shall make available in its office a copy of the proposed desired
20 future conditions and any supporting materials, such as the
21 documentation of factors considered under Subsection (d) and
22 groundwater availability model run results. After the public
23 hearing, the district shall compile for consideration at the next
24 joint planning meeting a summary of relevant comments received, any
25 suggested revisions to the proposed desired future conditions, and
26 the basis for the revisions [~~present at a meeting.~~

27 [~~(1) at which at least two-thirds of the districts~~

1 ~~located in whole or in part in the management area have a voting~~
2 ~~representative in attendance, and~~

3 ~~[(2) for which all districts located in whole or in~~
4 ~~part in the management area provide public notice in accordance~~
5 ~~with Chapter 551, Government Code.~~

6 ~~[(d-2) Each district in the management area shall ensure~~
7 ~~that its management plan contains goals and objectives consistent~~
8 ~~with achieving the desired future conditions of the relevant~~
9 ~~aquifers as adopted during the joint planning process].~~

10 (d-3) After the earlier of the date on which all the
11 districts have submitted their district summaries or the expiration
12 of the public comment period under Subsection (d-2), the district
13 representatives shall reconvene to review the reports, consider any
14 district's suggested revisions to the proposed desired future
15 conditions, and finally adopt the desired future conditions for the
16 management area. The desired future conditions must be adopted as a
17 resolution by a two-thirds vote of all the district
18 representatives. The district representatives shall produce a
19 desired future conditions explanatory report for the management
20 area and submit to the development board and each district in the
21 management area proof that notice was posted for the joint planning
22 meeting, a copy of the resolution, and a copy of the explanatory
23 report. The report must:

24 (1) identify each desired future condition;
25 (2) provide the policy and technical justifications
26 for each desired future condition;

27 (3) include documentation that the factors under

1 Subsection (d) were considered by the districts and a discussion of
2 how the adopted desired future conditions impact each factor;

3 (4) list other desired future condition options
4 considered, if any, and the reasons why those options were not
5 adopted; and

6 (5) discuss reasons why recommendations made by
7 advisory committees and public comments received by the districts
8 were or were not incorporated into the desired future conditions.

9 (d-4) As soon as possible after a district receives the
10 desired future conditions resolution and explanatory report under
11 Subsection (d-3), the district shall adopt the desired future
12 conditions in the resolution and report that apply to the district.

13 (e) Except as provided by this section, a [A] joint meeting
14 under this section must be held in accordance with Chapter 551,
15 Government Code. Each district shall comply with Chapter 552,
16 Government Code. The district representatives may elect one
17 district to be responsible for providing the notice of a joint
18 meeting that this section would otherwise require of each district
19 in the management area. Notice of a joint [the] meeting must be
20 provided at least 10 days before the date of the meeting by:

21 (1) providing notice to the secretary of state;

22 (2) providing notice to the county clerk of each
23 county located wholly or partly in a district that is located wholly
24 or partly in the management area; and

25 (3) posting notice at a place readily accessible to
26 the public at the district office of each district located wholly or
27 partly in the management area.

1 (e-1) The secretary of state and the county clerk of each
2 county described by Subsection (e) shall post notice of the meeting
3 in the manner provided by Section 551.053, Government Code.

4 (e-2) Notice of a joint meeting must include:

5 (1) the date, time, and location of the meeting;

6 (2) a summary of any action proposed to be taken;

7 (3) the name of each district located wholly or partly
8 in the management area; and

9 (4) the name, telephone number, and address of one or
10 more persons to whom questions, requests for additional
11 information, or comments may be submitted.

12 (e-3) The failure or refusal of one or more districts to
13 post notice for a joint meeting under Subsection (e)(3) does not
14 invalidate an action taken at the joint meeting [~~shall be given in~~
15 ~~accordance with the requirements for notice of district board of~~
16 ~~directors meetings under that Act].~~

17 Sec. 36.1081. TECHNICAL STAFF AND SUBCOMMITTEES FOR JOINT
18 PLANNING. (a) On request, the commission and the Texas Water
19 Development Board shall make technical staff available to serve in
20 a nonvoting advisory capacity to assist with the development of
21 desired future conditions during the joint planning process under
22 Section 36.108.

23 (b) During the joint planning process under Section 36.108,
24 the district representatives may appoint and convene nonvoting
25 advisory subcommittees who represent social, governmental,
26 environmental, or economic interests to assist in the development
27 of desired future conditions.

1 Sec. 36.1082. PETITION FOR INQUIRY. (a) In this section,
2 "affected person" means, with respect to a management area:

- 3 (1) an owner of land in the management area;
4 (2) a district in or adjacent to the management area;
5 (3) a regional water planning group with a water
6 management strategy in the management area;
7 (4) a person who holds or is applying for a permit from
8 a district in the management area;
9 (5) a person who, under Section 36.002, has an
10 ownership interest in groundwater in the management area; or
11 (6) any other person defined as affected by commission
12 rule.

13 (b) An affected person [~~(f) A district or person with a~~
14 ~~legally defined interest in the groundwater within the management~~
15 ~~area]~~ may file a petition with the commission requesting an inquiry
16 for any of the following reasons:

- 17 (1) a district fails to submit its management plan to
18 the executive administrator;
19 (2) [~~if~~] a district fails [~~or districts refused~~] to
20 participate [~~join~~] in the joint planning process under Section
21 36.108;
22 (3) a district fails to adopt rules;
23 (4) a district fails to adopt the applicable desired
24 future conditions adopted by the management area at a joint
25 meeting;
26 (5) a district fails to update its management plan
27 before the second anniversary of the adoption of desired future

1 conditions by the management area;

2 (6) a district fails to update its rules to implement
3 the applicable desired future conditions before the first
4 anniversary of the date it updated its management plan with the
5 adopted desired future conditions;

6 ~~(7) [or the process failed to result in adequate~~
7 ~~planning, including the establishment of reasonable future desired~~
8 ~~conditions of the aquifers, and the petition provides evidence~~
9 ~~that:~~

10 ~~[(1) a district in the groundwater management area has~~
11 ~~failed to adopt rules;~~

12 ~~[(2)] the rules adopted by a district are not designed~~
13 ~~to achieve the desired future conditions adopted by [condition of~~
14 ~~the groundwater resources in] the [groundwater] management area~~
15 ~~[established] during the joint planning process;~~

16 (8) [(3)] the groundwater in the management area is
17 not adequately protected by the rules adopted by a district; or

18 (9) [(4)] the groundwater in the [groundwater]
19 management area is not adequately protected due to the failure of a
20 district to enforce substantial compliance with its rules.

21 (c) [(g)] Not later than the 90th day after the date the
22 petition is filed, the commission shall review the petition and
23 either:

24 (1) dismiss the petition if the commission finds that
25 the evidence is not adequate to show that any of the conditions
26 alleged in the petition exist; or

27 (2) select a review panel as provided in Subsection

1 (d) [~~(h)~~].

2 (d) [~~(h)~~] If the petition is not dismissed under Subsection
3 (c) [~~(g)~~], the commission shall appoint a review panel consisting
4 of a chairman and four other members. A director or general manager
5 of a district located outside the [~~groundwater~~] management area
6 that is the subject of the petition may be appointed to the review
7 panel. The commission may not appoint more than two members of the
8 review panel from any one district. The commission also shall
9 appoint a disinterested person to serve as a nonvoting recording
10 secretary for the review panel. The recording secretary may be an
11 employee of the commission. The recording secretary shall record
12 and document the proceedings of the panel.

13 (e) [~~(i)~~] Not later than the 120th day after appointment,
14 the review panel shall review the petition and any evidence
15 relevant to the petition and, in a public meeting, consider and
16 adopt a report to be submitted to the commission. The commission
17 may direct the review panel to conduct public hearings at a location
18 in the [~~groundwater~~] management area to take evidence on the
19 petition. The review panel may attempt to negotiate a settlement or
20 resolve the dispute by any lawful means.

21 (f) [~~(j)~~] In its report, the review panel shall include:

22 (1) a summary of all evidence taken in any hearing on
23 the petition;

24 (2) a list of findings and recommended actions
25 appropriate for the commission to take and the reasons it finds
26 those actions appropriate; and

27 (3) any other information the panel considers

1 appropriate.

2 (g) [~~(k)~~] The review panel shall submit its report to the
3 commission. The commission may take action under Section 36.3011.

4 Sec. 36.1083. ADMINISTRATIVE APPEAL OF DESIRED FUTURE
5 CONDITIONS. (a) In this section:

6 (1) "Affected person" has the meaning assigned by
7 Section 36.1082.

8 (2) "Development board" means the Texas Water
9 Development Board.

10 (3) "Office" means the State Office of Administrative
11 Hearings.

12 (b) Not later than the 180th day after the date on which a
13 district adopted a desired future condition under Section
14 36.108(d-4), an affected person may file a petition with the
15 district requesting that the district contract with the office to
16 conduct a hearing to appeal the desired future condition, including
17 the reasonableness of the desired future condition.

18 (c) Not later than the 45th day after receiving a request
19 under Subsection (b), the district shall:

20 (1) contract with the office;

21 (2) request a contested case hearing; and

22 (3) submit a copy of the petition to the office.

23 (d) The hearing must be held at a location described by
24 Section 36.403(c). The hearing shall be conducted in accordance
25 with Chapter 2001, Government Code, and rules of the office.

26 (e) The district may adopt rules for notice and hearings
27 conducted under this section that are consistent with the

1 procedural rules of the office. In the manner prescribed by
2 district and office rules, the district shall provide general
3 notice of the hearing and individual notice of the hearing to the
4 petitioner, any other party in the hearing identified under
5 Subsection (f)(3), each nonparty district and regional water
6 planning group in the management area, the development board, and
7 the commission. Only an affected person may participate as a party
8 in the hearing.

9 (f) The office shall hold a prehearing conference to
10 determine preliminary matters including:

11 (1) whether the petition should be dismissed for
12 failure to state a claim on which relief can be granted;

13 (2) whether a person is an affected person and
14 eligible to participate as a party in the hearing; and

15 (3) naming parties to the hearing.

16 (g) The petitioner shall pay all costs associated with the
17 contract for the hearing and shall deposit with the district an
18 amount sufficient to pay the contract amount before the hearing
19 begins. At the conclusion of the hearing, the district shall refund
20 any excess money to the petitioner.

21 (h) If the administrative law judge finds that a technical
22 analysis is needed related to the hydrogeology of the area or
23 matters within the development board's expertise, the judge may
24 request a study from the development board. In conducting the
25 technical analysis, the development board shall consider any
26 relevant information provided in the petition, as well as any
27 groundwater availability models, published studies, or other

1 information the development board considers relevant. The study
2 must be completed and delivered to the office not later than the
3 120th day after the date of the request for admission into the
4 evidentiary record for consideration at the hearing. The
5 development board shall make available the relevant staff as expert
6 witnesses during the hearing if requested by any party or the
7 administrative law judge.

8 (i) On receipt of the administrative law judge's findings of
9 fact and conclusions of law in a proposal for decision, including a
10 dismissal of a petition under Subsection (f), the district's board
11 shall issue a final order stating the district's decision on the
12 contested matter and the district's findings of fact and
13 conclusions of law. The board may change a finding of fact or
14 conclusion of law made by the administrative law judge, or may
15 vacate or modify an order issued by the administrative law judge in
16 the same manner as a state agency under Section 2001.058(e),
17 Government Code. If the district in its final order finds that a
18 desired future condition is unreasonable, the districts in the
19 management area shall reconvene in a joint planning meeting not
20 later than the 30th day after the date of the final order to revise
21 the desired future condition.

22 (j) A district's final order finding that a desired future
23 condition is unreasonable does not invalidate the desired future
24 condition for a district not subject to the petition.

25 Sec. 36.1084. COURT APPEAL OF DESIRED FUTURE CONDITION. A
26 final district order under Section 36.1083 may be appealed to a
27 court under the substantial evidence standard of review as provided

1 by Section 2001.174, Government Code. The venue for an appeal is a
2 district court with jurisdiction over any part of the territory in
3 the management area that includes the district whose final order is
4 being appealed. If the court finds that a desired future condition
5 is unreasonable, the court shall strike the desired future
6 condition and order the districts in the management area to
7 reconvene in a joint planning meeting not later than the 30th day
8 after the date of the court's decision to revise the desired future
9 condition.

10 Sec. 36.1085. MANAGED AVAILABLE GROUNDWATER. (a) The
11 Texas Water Development Board shall require the [~~(1) A person with~~
12 ~~a legally defined interest in the groundwater in the groundwater~~
13 ~~management area, a district in or adjacent to the groundwater~~
14 ~~management area, or a regional water planning group for a region in~~
15 ~~the groundwater management area may file a petition with the~~
16 ~~development board appealing the approval of the desired future~~
17 ~~conditions of the groundwater resources established under this~~
18 ~~section. The petition must provide evidence that the districts did~~
19 ~~not establish a reasonable desired future condition of the~~
20 ~~groundwater resources in the groundwater management area.~~

21 [~~(m) The development board shall review the petition and any~~
22 ~~evidence relevant to the petition. The development board shall~~
23 ~~hold at least one hearing at a central location in the management~~
24 ~~area to take testimony on the petition. The development board may~~
25 ~~delegate responsibility for a hearing to the executive~~
26 ~~administrator or to a person designated by the executive~~
27 ~~administrator. If the development board finds that the conditions~~

1 ~~require revision, the development board shall submit a report to~~
2 ~~the districts that includes a list of findings and recommended~~
3 ~~revisions to the desired future conditions of the groundwater~~
4 ~~resources.~~

5 ~~[(n) The districts shall prepare a revised plan in~~
6 ~~accordance with development board recommendations and hold, after~~
7 ~~notice, at least one public hearing at a central location in the~~
8 ~~groundwater management area. After consideration of all public and~~
9 ~~development board comments, the districts shall revise the~~
10 ~~conditions and submit the conditions to the development board for~~
11 ~~review.~~

12 ~~[(e) The] districts in a management area to [shall] submit~~
13 ~~to the executive administrator not later than the 60th day after the~~
14 ~~date on which the districts adopted desired future conditions under~~
15 ~~Section 36.108(d-3):~~

16 ~~(1) the desired future conditions adopted~~
17 ~~[established] under Section 36.108;~~

18 ~~(2) proof that notice was posted for the joint~~
19 ~~planning meeting; and~~

20 ~~(3) the desired future conditions explanatory report~~
21 ~~[this section to the executive administrator].~~

22 ~~(b) The executive administrator shall provide each district~~
23 ~~and regional water planning group located wholly or partly in the~~
24 ~~management area with the managed available groundwater in the~~
25 ~~management area based upon the desired future conditions adopted by~~
26 ~~the districts [condition of the groundwater resources established~~
27 ~~under this section].~~

1 Sec. 36.1086. MANAGEMENT PLAN GOALS AND OBJECTIVES. Each
2 district in the management area shall ensure that its management
3 plan contains goals and objectives consistent with achieving the
4 desired future conditions of the relevant aquifers as adopted
5 during the joint planning process.

6 Sec. 36.1087. JOINT EFFORTS BY DISTRICTS IN A MANAGEMENT
7 AREA. [~~(p)~~] Districts located within the same [~~groundwater~~]
8 management areas or in adjacent management areas may contract to
9 jointly conduct studies or research, or to construct projects,
10 under terms and conditions that the districts consider beneficial.
11 These joint efforts may include studies of groundwater availability
12 and quality, aquifer modeling, and the interaction of groundwater
13 and surface water; educational programs; the purchase and sharing
14 of equipment; and the implementation of projects to make
15 groundwater available, including aquifer recharge, brush control,
16 weather modification, desalination, regionalization, and treatment
17 or conveyance facilities. The districts may contract under their
18 existing authorizations including those of Chapter 791, Government
19 Code, if their contracting authority is not limited by Sections
20 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

21 SECTION 18. Section 36.3011, Water Code, is amended to read
22 as follows:

23 Sec. 36.3011. COMMISSION ACTION REGARDING [~~FAILURE OF~~]
24 DISTRICT DUTIES [~~TO CONDUCT JOINT PLANNING~~]. Not later than the
25 45th day after receiving the review panel's report under Section
26 36.1082 [~~36.108~~], the executive director or the commission shall
27 take action to implement any or all of the panel's recommendations.

1 The commission may take any action against a district it considers
2 necessary in accordance with Section 36.303 if the commission finds
3 that:

4 (1) the [~~a~~] district has failed to submit its
5 management plan to the executive administrator;

6 (2) the district has failed to participate in the
7 joint planning process under Section 36.108;

8 (3) the [~~(2) a~~] district has failed to adopt rules;

9 (4) the district has failed to adopt the applicable
10 desired future conditions adopted by the management area at a joint
11 meeting;

12 (5) the district has failed to update its management
13 plan before the second anniversary of the adoption of desired
14 future conditions by the management area;

15 (6) the district has failed to update its rules to
16 implement the applicable desired future conditions before the first
17 anniversary of the date it updated its management plan with the
18 adopted desired future conditions;

19 (7) [~~(3)~~] the rules adopted by the district are not
20 designed to achieve the desired future conditions adopted by
21 [condition of the groundwater resources in] the [groundwater]
22 management area during the joint planning process; [or]

23 (8) [~~(4)~~] the groundwater in the management area is
24 not adequately protected by the rules adopted by the district; [7]
25 or

26 (9) the groundwater in the management area is not
27 adequately protected because of the district's failure to enforce

1 substantial compliance with its rules.

2 SECTION 19. Sections 15.908 and 17.180, Water Code, are
3 repealed.

4 SECTION 20. As soon as practicable after the effective date
5 of this Act, groundwater conservation districts shall appoint
6 initial representatives to regional water planning groups as
7 required by Subsection (c), Section 16.053, Water Code, as amended
8 by this Act.

9 SECTION 21. Not later than January 1, 2013:

10 (1) the Texas Commission on Environmental Quality
11 shall adopt rules under Subsection (f), Section 11.1271, Water
12 Code, as amended by this Act;

13 (2) the Texas Water Development Board and the Texas
14 Commission on Environmental Quality jointly shall adopt rules under
15 Subsection (e), Section 16.402, Water Code, as amended by this Act;
16 and

17 (3) the Texas Water Development Board and the Texas
18 Commission on Environmental Quality, in consultation with the Water
19 Conservation Advisory Council, shall develop the water use
20 calculation system required by Section 16.403, Water Code, as added
21 by this Act.

22 SECTION 22. The notice provisions of Subsections (b) and
23 (c), Section 36.063, Water Code, as added by this Act, apply only to
24 a meeting or hearing of a groundwater conservation district or a
25 joint planning meeting of groundwater conservation districts held
26 on or after the effective date of this Act. A meeting or hearing
27 held before the effective date of this Act is subject to the notice

1 provisions in effect at the time of the meeting or hearing, and
2 those provisions are continued in effect for that purpose.

3 SECTION 23. The requirement that a groundwater conservation
4 district's management plan under Subsection (e), Section 36.1071,
5 Water Code, as amended by this Act, include the desired future
6 conditions adopted under Section 36.108, Water Code, as amended by
7 this Act, for submission to the executive administrator of the
8 Texas Water Development Board before the plan is considered
9 administratively complete applies only to a district management
10 plan submitted to the executive administrator on or after the
11 effective date of this Act. A management plan submitted before the
12 effective date of this Act is governed by the law in effect on the
13 date the plan was submitted, and that law is continued in effect for
14 that purpose.

15 SECTION 24. The procedures for the adoption and reporting
16 of desired future conditions of groundwater resources in a
17 management area under Section 36.108, Water Code, as amended by
18 this Act, and Section 36.1085, Water Code, as added by this Act,
19 apply only to the adoption of desired future conditions that occurs
20 on or after the effective date of this Act. Desired future
21 conditions adopted before the effective date of this Act are
22 governed by the law in effect on the date the desired future
23 conditions were adopted, and that law is continued in effect for
24 that purpose.

25 SECTION 25. A petition filed and pending on the effective
26 date of this Act before the Texas Water Development Board to appeal
27 the adoption of desired future conditions by a groundwater

1 management area under former Subsection (l), Section 36.108, Water
2 Code, shall be handled by the Texas Water Development Board in
3 compliance with Subsections (l), (m), and (n), Section 36.108,
4 Water Code, as those subsections existed before the effective date
5 of this Act.

6 SECTION 26. This Act takes effect September 1, 2011.