

By: Seliger  
(Price)

S.B. No. 907

Substitute the following for S.B. No. 907:

By: King of Zavala

C.S.S.B. No. 907

A BILL TO BE ENTITLED

AN ACT

relating to the management, operation, rulemaking authority, and oversight of groundwater conservation districts.

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

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

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

SECTION 2. Section 36.063, Water Code, is amended to read as follows:

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

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

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

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

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

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

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

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

12           SECTION 3. Section 36.1071, Water Code, is amended by  
13 amending Subsections (a), (c), (e), and (f) and adding Subsection  
14 (f-1) to read as follows:

15           (a) Following notice and hearing, the district shall, in  
16 coordination with surface water management entities on a regional  
17 basis, develop a comprehensive management plan which addresses the  
18 following management goals, as applicable:

19           (1) providing the most efficient use of groundwater;  
20           (2) controlling and preventing waste of groundwater;  
21           (3) controlling and preventing subsidence;  
22           (4) addressing conjunctive surface water management  
23 issues;

24           (5) addressing natural resource issues;

25           (6) addressing drought conditions;

26           (7) addressing conservation, recharge enhancement,  
27 rainwater harvesting, precipitation enhancement, or brush control,

1 where appropriate and cost-effective; and

2 (8) addressing [~~in a quantitative manner~~] the desired  
3 future conditions adopted by the district under Section 36.108 [~~of~~  
4 ~~the groundwater resources~~].

5 (c) The commission and the Texas Water Development Board  
6 shall provide technical assistance to a district in the development  
7 of the management plan required under Subsection (a) that [~~which~~]  
8 may include, if requested by the district, a preliminary review and  
9 comment on the plan prior to final approval by the Texas Water  
10 Development Board [~~board~~]. If such review and comment by the  
11 commission is requested, the commission shall provide comment not  
12 later than 30 days from the date the request is received.

13 (e) In the management plan described under Subsection (a),  
14 the district shall:

15 (1) identify the performance standards and management  
16 objectives under which the district will operate to achieve the  
17 management goals identified under Subsection (a);

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

22 (3) include estimates of the following:

23 (A) managed available groundwater in the  
24 district based on the desired future condition adopted  
25 [~~established~~] under Section 36.108;

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

1 (C) the annual amount of recharge from  
2 precipitation, if any, to the groundwater resources within the  
3 district;

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

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

10 (F) the projected surface water supply in the  
11 district according to the most recently adopted state water plan;  
12 and

13 (G) the projected total demand for water in the  
14 district according to the most recently adopted state water plan;  
15 and

16 (4) consider the water supply needs and water  
17 management strategies included in the adopted state water plan.

18 (f) ~~[The district shall adopt rules necessary to implement~~  
19 ~~the management plan.]~~ Prior to the development of the district's  
20 first management plan and ~~[its]~~ approval of that plan under Section  
21 36.1072, the district:

22 (1) ~~[may not adopt rules other than rules pertaining~~  
23 ~~to the registration and interim permitting of new and existing~~  
24 ~~wells and rules governing spacing and procedure before the~~  
25 ~~district's board; however, the district may not adopt any rules~~  
26 ~~limiting the production of wells, except rules requiring that~~  
27 ~~groundwater produced from a well be put to a nonwasteful,~~

1 ~~beneficial use. The district]~~ may accept applications for permits  
2 under Section 36.113, provided the district does not act on any such  
3 application until the district's management plan is approved as  
4 provided in Section 36.1072;

5 (2) may adopt rules pertaining to the registration,  
6 interim permitting, metering, production reporting, spacing, and,  
7 where applicable, fee payment for authorized or actual production  
8 of water from new and existing wells;

9 (3) may adopt rules governing procedure before the  
10 district's board; and

11 (4) may not adopt any rules limiting the production of  
12 wells, except rules requiring that groundwater produced from a well  
13 be put to a nonwasteful, beneficial use.

14 (f-1) After a management plan is finally approved under  
15 Section 36.1072, the district shall adopt or amend rules limiting  
16 the production of wells or allocating groundwater as necessary to  
17 implement the management plan and achieve the applicable desired  
18 future condition. A district may not adopt or amend rules limiting  
19 the production of wells or allocating groundwater if the district  
20 fails to:

21 (1) adopt a management plan as required by this  
22 section;

23 (2) submit a management plan to the executive  
24 administrator as required by Section 36.1072; and

25 (3) receive approval of the management plan under  
26 Section 36.1072.

27 SECTION 4. Section 36.1072, Water Code, is amended by

1 amending Subsection (c) and adding Subsection (c-1) to read as  
2 follows:

3 (c) Once the executive administrator has granted  
4 administrative approval to [approved] a management plan:

5 (1) the executive administrator may not revoke but may  
6 require revisions to the approved [~~groundwater conservation~~  
7 ~~district~~] management plan as provided by Subsection (g); and

8 (2) the executive administrator may request  
9 additional information from the district if the information is  
10 necessary to clarify, modify, or supplement previously submitted  
11 material[~~, but a request for additional information does not render~~  
12 ~~the management plan unapproved~~].

13 (c-1) Not later than the 60th day after the date of the  
14 administrative approval of a district's management plan under  
15 Subsection (c), the executive administrator shall review the  
16 management plan to determine whether the goals of the management  
17 plan are consistent with the achievement of the desired future  
18 conditions established under Section 36.108 that are applicable to  
19 all or part of the district, considering any available information  
20 regarding groundwater levels, and:

21 (1) request additional information from the district;

22 (2) recommend that the district make substantive  
23 changes to the management plan; or

24 (3) approve the management plan.

25 SECTION 5. Section 36.1073, Water Code, is amended to read  
26 as follows:

27 Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment

1 to a district's [~~the~~] management plan shall be submitted to the  
2 executive administrator within 60 days following adoption of the  
3 amendment by the district's board. The executive administrator  
4 shall review and approve any amendment that [~~which~~] substantially  
5 affects the management plan in accordance with the procedures  
6 established under Section 36.1072.

7 SECTION 6. Subchapter D, Chapter 36, Water Code, is amended  
8 by amending Section 36.108 and adding Sections 36.1081, 36.1082,  
9 36.1083, 36.1084, 36.1085, 36.1086, and 36.1087 to read as follows:

10 Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) In  
11 this section:

12 (1) "Development [~~,"development]~~ board" means the  
13 Texas Water Development Board.

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

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

26 (c) The district representatives [~~The presiding officer, or~~  
27 ~~the presiding officer's designee, of each district located in whole~~

1 ~~or in part in the management area]~~ shall meet at least annually to  
2 conduct joint planning with the other districts in the management  
3 area and to review the management plans, the ~~[and]~~ accomplishments  
4 of ~~[for]~~ the management area, and proposals to adopt new or amend  
5 existing desired future conditions. In reviewing the management  
6 plans, the districts shall consider:

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

9 (2) the effectiveness of the measures established by  
10 each management plan for conserving and protecting groundwater and  
11 preventing waste, and the effectiveness of these measures in the  
12 management area generally;

13 (3) any other matters that the boards consider  
14 relevant to the protection and conservation of groundwater and the  
15 prevention of waste in the management area; and

16 (4) the degree to which each management plan achieves  
17 the desired future conditions established during the joint planning  
18 process.

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

27 (1) aquifer uses or conditions within the management



1 area, including conditions that differ substantially from one  
2 geographic area to another;

3 (2) the water supply needs and water management  
4 strategies included in the state water plan;

5 (3) hydrological conditions, including for each  
6 aquifer in the management area the total estimated recoverable  
7 storage as provided by the executive administrator, and the average  
8 annual recharge, inflows, and discharge;

9 (4) other environmental impacts, including impacts on  
10 spring flow and other interactions between groundwater and surface  
11 water;

12 (5) the impact on subsidence;

13 (6) socioeconomic impacts reasonably expected to  
14 occur;

15 (7) the impact on the interests and rights in private  
16 property, including ownership and the rights of management area  
17 landowners and their lessees and assigns in groundwater as  
18 recognized under Section 36.002;

19 (8) whether the desired future conditions are  
20 physically possible; and

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

25 (d-1) The districts may establish different desired future  
26 conditions for:

27 (1) each aquifer, subdivision of an aquifer, or

1 geologic strata located in whole or in part within the boundaries of  
2 the management area; or

3 (2) each geographic area overlying an aquifer in whole  
4 or in part or subdivision of an aquifer within the boundaries of the  
5 management area.

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

1 hearing, the district shall compile for consideration at the next  
2 joint planning meeting a summary of relevant comments received, any  
3 suggested revisions to the proposed desired future conditions, and  
4 the basis for the revisions [~~present at a meeting.~~

5           ~~[(1) at which at least two-thirds of the districts~~  
6 ~~located in whole or in part in the management area have a voting~~  
7 ~~representative in attendance, and~~

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

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

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

1 report. The report must:

2 (1) identify each desired future condition;

3 (2) provide the policy and technical justifications  
4 for each desired future condition;

5 (3) include documentation that the factors under  
6 Subsection (d) were considered by the districts and a discussion of  
7 how the adopted desired future conditions impact each factor;

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

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

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

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

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

27 (2) providing notice to the county clerk of each

1 county located wholly or partly in a district that is located wholly  
2 or partly in the management area; and

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

6 (f) The secretary of state and the county clerk of each  
7 county described by Subsection (e) shall post notice of the meeting  
8 in the manner provided by Section 551.053, Government Code.

9 (g) Notice of a joint meeting must include:

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

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

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

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

17 (h) The failure or refusal of one or more districts to post  
18 notice for a joint meeting under Subsection (e) does not invalidate  
19 an action taken at the joint meeting [~~shall be given in accordance~~  
20 ~~with the requirements for notice of district board of directors~~  
21 ~~meetings under that Act].~~

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

1        (b) During the joint planning process under Section 36.108,  
2 the district representatives may appoint and convene nonvoting  
3 advisory subcommittees who represent social, governmental,  
4 environmental, or economic interests to assist in the development  
5 of desired future conditions.

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

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

18        (b) An affected person who seeks to appeal a desired future  
19 condition adopted under Section 36.108 must file a petition under  
20 Section 36.1083. Additionally, an affected person [~~(f) A district~~  
21 ~~or person with a legally defined interest in the groundwater within~~  
22 ~~the management area]~~ may file a petition with the commission  
23 requesting an inquiry for any of the following reasons:

24           (1) [~~if~~] a district fails [~~or districts refused~~] to  
25 participate [~~join~~] in the joint planning process under Section  
26 36.108;

27           (2) a district fails to adopt rules;

1           (3) a district fails to adopt the applicable desired  
2 future conditions adopted by the management area at a joint  
3 meeting;

4           (4) a district fails to update its management plan  
5 before the second anniversary of the adoption of desired future  
6 conditions by the management area;

7           (5) a district fails to update its rules to implement  
8 the applicable desired future conditions before the first  
9 anniversary of the date it updated its management plan with the  
10 adopted desired future conditions;

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

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

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

21           (7) [(3)] the groundwater in the management area is  
22 not adequately protected by the rules adopted by a district; or

23           (8) [(4)] the groundwater in the ~~[groundwater]~~  
24 management area is not adequately protected due to the failure of a  
25 district to enforce substantial compliance with its rules.

26           (c) [(g)] Not later than the 90th day after the date the  
27 petition is filed, the commission shall review the petition and

1 either:

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

5 (2) select a review panel as provided in Subsection  
6 (d) [~~(h)~~].

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

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

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

27 (1) a summary of all evidence taken in any hearing on



1 the petition;

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

5 (3) any other information the panel considers  
6 appropriate.

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

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

11 (1) "Affected person" has the meaning assigned by  
12 Section 36.1082.

13 (2) "Development board" means the Texas Water  
14 Development Board.

15 (3) "Office" means the State Office of Administrative  
16 Hearings.

17 (b) Not later than the 180th day after the date on which a  
18 district adopted a desired future condition under Section  
19 36.108(d-4), an affected person may file a petition with the  
20 district requesting that the district contract with the office to  
21 conduct a hearing to appeal the desired future condition, including  
22 the reasonableness of the desired future condition. An affected  
23 person may not request a hearing under this section for a reason  
24 described by Section 36.1082(b).

25 (c) Not later than the 45th day after the deadline for  
26 filing a petition under Subsection (b), the district shall:

27 (1) contract with the office;

1           (2) request a contested case hearing; and

2           (3) submit a copy of any petitions received by the  
3 district to the office.

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

7           (e) The district may adopt rules for notice and hearings  
8 conducted under this section that are consistent with the  
9 procedural rules of the office. In the manner prescribed by  
10 district and office rules, the district shall provide general  
11 notice of the hearing and individual notice of the hearing to the  
12 petitioner, any other party in the hearing identified under  
13 Subsection (f)(3), each nonparty district and regional water  
14 planning group in the management area, the development board, and  
15 the commission. Only an affected person may participate as a party  
16 in the hearing.

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

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

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

23           (3) naming parties to the hearing.

24           (g) The petitioner shall pay all costs associated with the  
25 contract for the hearing and shall deposit with the district an  
26 amount sufficient to pay the contract amount before the hearing  
27 begins. At the conclusion of the hearing, the district shall refund

1 any excess money to the petitioner.

2 (h) If the administrative law judge finds that a technical  
3 analysis is needed related to the hydrogeology of the area or  
4 matters within the development board's expertise, the judge may  
5 request a study from the development board. In conducting the  
6 technical analysis, the development board shall consider any  
7 relevant information provided in the petition, as well as any  
8 groundwater availability models, published studies, or other  
9 information the development board considers relevant. The study  
10 must be completed and delivered to the office not later than the  
11 120th day after the date of the request for admission into the  
12 evidentiary record for consideration at the hearing. The  
13 development board shall make available the relevant staff as expert  
14 witnesses during the hearing if requested by any party or the  
15 administrative law judge.

16 (i) On receipt of the administrative law judge's findings of  
17 fact and conclusions of law in a proposal for decision, including a  
18 dismissal of a petition under Subsection (f), the district's board  
19 shall issue a final order stating the district's decision on the  
20 contested matter and the district's findings of fact and  
21 conclusions of law. The board may change a finding of fact or  
22 conclusion of law made by the administrative law judge, or may  
23 vacate or modify an order issued by the administrative law judge in  
24 the same manner as a state agency under Section 2001.058(e),  
25 Government Code. If the district in its final order finds that a  
26 desired future condition is unreasonable, the districts in the  
27 management area shall reconvene in a joint planning meeting not

1 later than the 30th day after the date of the final order to revise  
2 the desired future condition.

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

6 (k) If the administrative law judge considers it  
7 appropriate, the administrative law judge may consolidate hearings  
8 requested under this section by two or more districts and shall  
9 specify the location for the consolidated hearing from the possible  
10 locations under Subsection (d). The administrative law judge shall  
11 prepare separate findings of fact and conclusions of law for each  
12 district included as a party in a multidistrict hearing.

13 Sec. 36.1084. COURT APPEAL OF DESIRED FUTURE CONDITION.

14 (a) A final district order under Section 36.1083 may be appealed to  
15 a court under the substantial evidence standard of review as  
16 provided by Section 2001.174, Government Code. The venue for an  
17 appeal is a district court with jurisdiction over any part of the  
18 territory in the management area that includes the district whose  
19 final order is being appealed. If the court finds that a desired  
20 future condition is unreasonable, the court shall strike the  
21 desired future condition and order the districts in the management  
22 area to reconvene in a joint planning meeting not later than the  
23 30th day after the date of the court's decision to revise the  
24 desired future condition.

25 (b) A court's finding under this section does not apply to a  
26 desired future condition that is not a matter before the court.

27 (c) A petitioner may file a consolidated suit under this

1 section to appeal the final orders of two or more districts.

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

13 [~~(m) The development board shall review the petition and any~~  
14 ~~evidence relevant to the petition. The development board shall~~  
15 ~~hold at least one hearing at a central location in the management~~  
16 ~~area to take testimony on the petition. The development board may~~  
17 ~~delegate responsibility for a hearing to the executive~~  
18 ~~administrator or to a person designated by the executive~~  
19 ~~administrator. If the development board finds that the conditions~~  
20 ~~require revision, the development board shall submit a report to~~  
21 ~~the districts that includes a list of findings and recommended~~  
22 ~~revisions to the desired future conditions of the groundwater~~  
23 ~~resources.~~

24 [~~(n) The districts shall prepare a revised plan in~~  
25 ~~accordance with development board recommendations and hold, after~~  
26 ~~notice, at least one public hearing at a central location in the~~  
27 ~~groundwater management area. After consideration of all public and~~

1 ~~development board comments, the districts shall revise the~~  
2 ~~conditions and submit the conditions to the development board for~~  
3 ~~review.~~

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

8 (1) the desired future conditions adopted  
9 [established] under Section 36.108;

10 (2) proof that notice was posted for the joint  
11 planning meeting; and

12 (3) the desired future conditions explanatory report  
13 [this section to the executive administrator].

14 (b) The executive administrator shall provide each district  
15 and regional water planning group located wholly or partly in the  
16 management area with the managed available groundwater in the  
17 management area based upon the desired future conditions adopted by  
18 the districts ~~[condition of the groundwater resources established~~  
19 ~~under this section].~~

20 Sec. 36.1086. MANAGEMENT PLAN GOALS AND OBJECTIVES. Each  
21 district in the management area shall ensure that its management  
22 plan contains goals and objectives consistent with achieving the  
23 desired future conditions of the relevant aquifers as adopted  
24 during the joint planning process.

25 Sec. 36.1087. JOINT EFFORTS BY DISTRICTS IN A MANAGEMENT  
26 AREA. ~~[(p)]~~ Districts located within the same ~~[groundwater]~~  
27 management areas or in adjacent management areas may contract to

1 jointly conduct studies or research, or to construct projects,  
2 under terms and conditions that the districts consider beneficial.  
3 These joint efforts may include studies of groundwater availability  
4 and quality, aquifer modeling, and the interaction of groundwater  
5 and surface water; educational programs; the purchase and sharing  
6 of equipment; and the implementation of projects to make  
7 groundwater available, including aquifer recharge, brush control,  
8 weather modification, desalination, regionalization, and treatment  
9 or conveyance facilities. The districts may contract under their  
10 existing authorizations including those of Chapter 791, Government  
11 Code, if their contracting authority is not limited by Sections  
12 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

13 SECTION 7. Section 36.207, Water Code, is amended to read as  
14 follows:

15 Sec. 36.207. USE OF PRODUCTION ~~[PERMIT]~~ FEES AUTHORIZED BY  
16 SPECIAL LAW. A district may use funds obtained from production  
17 ~~[permit]~~ fees collected pursuant to the special law governing the  
18 district for any purpose consistent with the district's approved  
19 ~~[certified water]~~ management plan including, without limitation,  
20 making grants, loans, or contractual payments to achieve,  
21 facilitate, or expedite reductions in groundwater pumping or the  
22 development or distribution of alternative water supplies.

23 SECTION 8. Section 36.301, Water Code, is amended to read as  
24 follows:

25 Sec. 36.301. VIOLATIONS RELATED TO ~~[FAILURE TO SUBMIT A]~~  
26 MANAGEMENT PLAN. The commission shall take appropriate action  
27 under Section 36.303 if:

1           (1) a district adopts or amends a rule in violation of  
2 Section 36.1071(f-1);

3           (2) [~~if~~] a district [~~board~~] fails to submit a  
4 management plan or to receive approval [~~certification~~] of the [~~its~~]  
5 management plan under Section 36.1072;

6           (3) a district fails to timely readopt the management  
7 plan or to submit the readopted management plan to the executive  
8 administrator for approval in accordance with Section 36.1072(f);

9           (4) the executive administrator determines that a  
10 readopted management plan does not meet the requirements for  
11 approval, and the district has exhausted all appeals; or

12           (5) a district fails to submit or receive approval  
13 [~~certification~~] of an amendment to the management plan under  
14 Section 36.1073[~~, the commission shall take appropriate action~~  
15 under Section 36.303].

16           SECTION 9. Section 36.3011, Water Code, is amended to read  
17 as follows:

18           Sec. 36.3011. COMMISSION ACTION REGARDING [~~FAILURE OF~~]  
19 DISTRICT DUTIES RELATED TO [~~CONDUCT~~] JOINT PLANNING. Not later  
20 than the 45th day after receiving the review panel's report under  
21 Section 36.1082 [~~36.108]~~, the executive director or the commission  
22 shall take action to implement any or all of the panel's  
23 recommendations. The commission may take any action against a  
24 district it considers necessary in accordance with Section 36.303  
25 if the commission finds that:

26           (1) the district has failed to participate in the  
27 joint planning process under Section 36.108 [~~a district has failed~~



1 ~~to submit its plan to the executive administrator];~~

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

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

6 (4) the district has failed to update its management  
7 plan before the second anniversary of the adoption of desired  
8 future conditions by the management area;

9 (5) the district has failed to update its rules to  
10 implement the applicable desired future conditions before the first  
11 anniversary of the date it updated its management plan with the  
12 adopted desired future conditions;

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

17 (7) [~~4~~] the groundwater in the management area is  
18 not adequately protected by the rules adopted by the district; [~~r~~]  
19 or

20 (8) the groundwater in the management area is not  
21 adequately protected because of the district's failure to enforce  
22 substantial compliance with its rules.

23 SECTION 10. The notice provisions of Sections 36.063(b) and  
24 (c), Water Code, as added by this Act, apply only to a meeting or  
25 hearing of a groundwater conservation district or a joint planning  
26 meeting of groundwater conservation districts held on or after the  
27 effective date of this Act. A meeting or hearing held before the

1 effective date of this Act is subject to the notice provisions in  
2 effect at the time of the meeting or hearing, and those provisions  
3 are continued in effect for that purpose.

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

15 SECTION 12. Section 36.1071, Water Code, as amended by this  
16 Act, applies only to the rulemaking authority of a groundwater  
17 conservation district related to a management plan or an amendment  
18 to a management plan that is submitted by the district to the  
19 executive administrator of the Texas Water Development Board for  
20 review and approval on or after the effective date of this Act. A  
21 district's rulemaking authority related to a management plan or an  
22 amendment to a management plan that is submitted to the executive  
23 administrator of the Texas Water Development Board before the  
24 effective date of this Act is governed by the law in effect when the  
25 management plan or amendment was submitted, and the former law is  
26 continued in effect for that purpose.

27 SECTION 13. The procedures for the adoption and reporting

1 of desired future conditions of groundwater resources in a  
2 management area under Section 36.108, Water Code, as amended by  
3 this Act, and Section 36.1085, Water Code, as added by this Act,  
4 apply only to the adoption of desired future conditions that occurs  
5 on or after the effective date of this Act. Desired future  
6 conditions adopted before the effective date of this Act are  
7 governed by the law in effect on the date the desired future  
8 conditions were adopted, and that law is continued in effect for  
9 that purpose.

10 SECTION 14. A petition filed and pending on the effective  
11 date of this Act before the Texas Water Development Board to appeal  
12 the adoption of desired future conditions by a groundwater  
13 management area under former Section 36.108(1), Water Code, shall  
14 be handled by the Texas Water Development Board in compliance with  
15 Sections 36.108(1), (m), and (n), Water Code, as those sections  
16 existed before the effective date of this Act.

17 SECTION 15. The change in law made by this Act to Section  
18 36.301, Water Code, applies only to a violation by a groundwater  
19 conservation district that occurs on or after the effective date of  
20 this Act. A violation that occurs before the effective date of this  
21 Act is governed by the law in effect on the date the violation  
22 occurred, and the former law is continued in effect for that  
23 purpose.

24 SECTION 16. This Act takes effect September 1, 2011.