

By: Seliger

S.B. No. 907

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the management, operation, rulemaking authority, and  
3 oversight of groundwater conservation districts.

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

5 SECTION 1. Section 36.1071, Water Code, is amended by  
6 amending Subsections (c) and (f) and adding Subsection (f-1) to  
7 read as follows:

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

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

20 (1) ~~[may not adopt rules other than rules pertaining~~  
21 ~~to the registration and interim permitting of new and existing~~  
22 ~~wells and rules governing spacing and procedure before the~~  
23 ~~district's board; however, the district may not adopt any rules~~  
24 ~~limiting the production of wells, except rules requiring that~~

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

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

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

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

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

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

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

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

1 SECTION 2. Section 36.1072, Water Code, is amended by  
2 amending Subsection (c) and adding Subsection (c-1) to read as  
3 follows:

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

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

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

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

- 22 (1) request additional information from the district;  
23 (2) recommend that the district make substantive  
24 changes to the management plan; or  
25 (3) approve the management plan.

26 SECTION 3. Section 36.1073, Water Code, is amended to read  
27 as follows:

1           Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment  
2 to a district's [~~the~~] management plan shall be submitted to the  
3 executive administrator within 60 days following adoption of the  
4 amendment by the district's board. The executive administrator  
5 shall review and approve any amendment that [~~which~~] substantially  
6 affects the management plan in accordance with the procedures  
7 established under Section 36.1072.

8           SECTION 4. Subsection (n), Section 36.108, Water Code, is  
9 amended to read as follows:

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

17           SECTION 5. Section 36.207, Water Code, is amended to read as  
18 follows:

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

27           SECTION 6. Section 36.301, Water Code, is amended to read as

1 follows:

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

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

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

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

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

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

20           SECTION 7. (a) Section 36.1071, Water Code, as amended by  
21 this Act, applies only to the rulemaking authority of a groundwater  
22 conservation district related to a management plan or an amendment  
23 to a management plan that is submitted by the district to the  
24 executive administrator of the Texas Water Development Board for  
25 review and approval on or after the effective date of this Act. A  
26 district's rulemaking authority related to a management plan or an  
27 amendment to a management plan that is submitted to the executive

1 administrator of the Texas Water Development Board before the  
2 effective date of this Act is governed by the law in effect when the  
3 management plan or amendment was submitted, and the former law is  
4 continued in effect for that purpose.

5 (b) The change in law made by this Act to Section 36.301,  
6 Water Code, applies only to a violation by a groundwater  
7 conservation district that occurs on or after the effective date of  
8 this Act. A violation that occurs before the effective date of this  
9 Act is governed by the law in effect on the date the violation  
10 occurred, and the former law is continued in effect for that  
11 purpose.

12 SECTION 8. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2011.