

1-1 By: Seliger S.B. No. 907  
1-2 (In the Senate - Filed February 23, 2011; March 8, 2011,  
1-3 read first time and referred to Committee on Natural Resources;  
1-4 March 30, 2011, reported favorably by the following vote: Yeas 8,  
1-5 Nays 0; March 30, 2011, sent to printer.)

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

1-8 relating to the management, operation, rulemaking authority, and  
1-9 oversight of groundwater conservation districts.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 36.1071, Water Code, is amended by  
1-12 amending Subsections (c) and (f) and adding Subsection (f-1) to  
1-13 read as follows:

1-14 (c) The commission and the Texas Water Development Board  
1-15 shall provide technical assistance to a district in the development  
1-16 of the management plan required under Subsection (a) that [which]  
1-17 may include, if requested by the district, a preliminary review and  
1-18 comment on the plan prior to final approval by the Texas Water  
1-19 Development Board [board]. If such review and comment by the  
1-20 commission is requested, the commission shall provide comment not  
1-21 later than 30 days from the date the request is received.

1-22 (f) ~~[The district shall adopt rules necessary to implement~~  
1-23 ~~the management plan.]~~ Prior to the development of the district's  
1-24 first management plan and [its] approval of that plan under Section  
1-25 36.1072, the district:

1-26 (1) ~~[may not adopt rules other than rules pertaining~~  
1-27 ~~to the registration and interim permitting of new and existing~~  
1-28 ~~wells and rules governing spacing and procedure before the~~  
1-29 ~~district's board; however, the district may not adopt any rules~~  
1-30 ~~limiting the production of wells, except rules requiring that~~  
1-31 ~~groundwater produced from a well be put to a nonwasteful,~~  
1-32 ~~beneficial use. The district]~~ may accept applications for permits  
1-33 under Section 36.113, provided the district does not act on any such  
1-34 application until the district's management plan is approved as  
1-35 provided in Section 36.1072;

1-36 (2) may adopt rules pertaining to the registration,  
1-37 interim permitting, metering, production reporting, spacing, and,  
1-38 where applicable, fee payment for authorized or actual production  
1-39 of water from new and existing wells;

1-40 (3) may adopt rules governing procedure before the  
1-41 district's board; and

1-42 (4) may not adopt any rules limiting the production of  
1-43 wells, except rules requiring that groundwater produced from a well  
1-44 be put to a nonwasteful, beneficial use.

1-45 (f-1) After a management plan is finally approved under  
1-46 Section 36.1072, the district shall adopt or amend rules limiting  
1-47 the production of wells or allocating groundwater as necessary to  
1-48 implement the management plan and achieve the applicable desired  
1-49 future condition. A district may not adopt or amend rules limiting  
1-50 the production of wells or allocating groundwater if the district  
1-51 fails to:

1-52 (1) adopt a management plan as required by this  
1-53 section;

1-54 (2) submit a management plan to the executive  
1-55 administrator as required by Section 36.1072; and

1-56 (3) receive approval of the management plan under  
1-57 Section 36.1072.

1-58 SECTION 2. Section 36.1072, Water Code, is amended by  
1-59 amending Subsection (c) and adding Subsection (c-1) to read as  
1-60 follows:

1-61 (c) Once the executive administrator has granted  
1-62 administrative approval to [approved] a management plan:

1-63 (1) the executive administrator may not revoke but may  
1-64 require revisions to the approved ~~[groundwater conservation~~

2-1 ~~district]~~ management plan as provided by Subsection (g); and  
 2-2 (2) the executive administrator may request  
 2-3 additional information from the district if the information is  
 2-4 necessary to clarify, modify, or supplement previously submitted  
 2-5 material[, ~~but a request for additional information does not render~~  
 2-6 ~~the management plan unapproved].~~

2-7 (c-1) Not later than the 60th day after the date of the  
 2-8 administrative approval of a district's management plan under  
 2-9 Subsection (c), the executive administrator shall review the  
 2-10 management plan to determine whether goals of the management plan  
 2-11 are consistent with the achievement of the desired future  
 2-12 conditions established under Section 36.108(d) that are applicable  
 2-13 to all or part of the district, considering any available  
 2-14 information regarding groundwater levels, and:

2-15 (1) request additional information from the district;  
 2-16 (2) recommend that the district make substantive  
 2-17 changes to the management plan; or  
 2-18 (3) approve the management plan.

2-19 SECTION 3. Section 36.1073, Water Code, is amended to read  
 2-20 as follows:

2-21 Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment  
 2-22 to a district's [~~the~~] management plan shall be submitted to the  
 2-23 executive administrator within 60 days following adoption of the  
 2-24 amendment by the district's board. The executive administrator  
 2-25 shall review and approve any amendment that [~~which~~] substantially  
 2-26 affects the management plan in accordance with the procedures  
 2-27 established under Section 36.1072.

2-28 SECTION 4. Subsection (n), Section 36.108, Water Code, is  
 2-29 amended to read as follows:

2-30 (n) The districts shall prepare [~~a~~] revised conditions  
 2-31 [~~plan~~] in accordance with development board recommendations and  
 2-32 hold, after notice, at least one public hearing at a central  
 2-33 location in the groundwater management area. After consideration  
 2-34 of all public and development board comments, the districts shall  
 2-35 revise the conditions and submit the conditions to the development  
 2-36 board for review.

2-37 SECTION 5. Section 36.207, Water Code, is amended to read as  
 2-38 follows:

2-39 Sec. 36.207. USE OF PRODUCTION [~~PERMIT~~] FEES AUTHORIZED BY  
 2-40 SPECIAL LAW. A district may use funds obtained from production  
 2-41 [~~permit~~] fees collected pursuant to the special law governing the  
 2-42 district for any purpose consistent with the district's approved  
 2-43 [~~certified water~~] management plan including, without limitation,  
 2-44 making grants, loans, or contractual payments to achieve,  
 2-45 facilitate, or expedite reductions in groundwater pumping or the  
 2-46 development or distribution of alternative water supplies.

2-47 SECTION 6. Section 36.301, Water Code, is amended to read as  
 2-48 follows:

2-49 Sec. 36.301. VIOLATIONS RELATED TO [~~FAILURE TO SUBMIT A~~]  
 2-50 MANAGEMENT PLAN. The commission shall take appropriate action  
 2-51 under Section 36.303 if:

2-52 (1) a district adopts or amends a rule in violation of  
 2-53 Section 36.1071(f-1);

2-54 (2) [~~if~~] a district [~~board~~] fails to submit a  
 2-55 management plan or to receive approval [~~certification~~] of the [~~its~~]  
 2-56 management plan under Section 36.1072;

2-57 (3) a district fails to timely readopt the management  
 2-58 plan or to submit the readopted management plan to the executive  
 2-59 administrator for approval in accordance with Section 36.1072(f);

2-60 (4) the executive administrator determines that a  
 2-61 readopted management plan does not meet the requirements for  
 2-62 approval, and the district has exhausted all appeals; or

2-63 (5) a district fails to submit or receive approval  
 2-64 [~~certification~~] of an amendment to the management plan under  
 2-65 Section 36.1073[, ~~the commission shall take appropriate action~~  
 2-66 ~~under Section 36.303].~~

2-67 SECTION 7. (a) Section 36.1071, Water Code, as amended by  
 2-68 this Act, applies only to the rulemaking authority of a groundwater  
 2-69 conservation district related to a management plan or an amendment

3-1 to a management plan that is submitted by the district to the  
3-2 executive administrator of the Texas Water Development Board for  
3-3 review and approval on or after the effective date of this Act. A  
3-4 district's rulemaking authority related to a management plan or an  
3-5 amendment to a management plan that is submitted to the executive  
3-6 administrator of the Texas Water Development Board before the  
3-7 effective date of this Act is governed by the law in effect when the  
3-8 management plan or amendment was submitted, and the former law is  
3-9 continued in effect for that purpose.

3-10 (b) The change in law made by this Act to Section 36.301,  
3-11 Water Code, applies only to a violation by a groundwater  
3-12 conservation district that occurs on or after the effective date of  
3-13 this Act. A violation that occurs before the effective date of this  
3-14 Act is governed by the law in effect on the date the violation  
3-15 occurred, and the former law is continued in effect for that  
3-16 purpose.

3-17 SECTION 8. This Act takes effect immediately if it receives  
3-18 a vote of two-thirds of all the members elected to each house, as  
3-19 provided by Section 39, Article III, Texas Constitution. If this  
3-20 Act does not receive the vote necessary for immediate effect, this  
3-21 Act takes effect September 1, 2011.

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