

By: Guillen

H.B. No. 1635

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the management of groundwater, including the
3 classification of and the obtaining of information regarding
4 groundwater and the formulation of desired future conditions by a
5 groundwater conservation district.

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

7 ARTICLE 1. DEVELOPMENT AND USE OF GROUNDWATER CLASSIFICATION
8 SYSTEM

9 SECTION 1.01. Section 26.405, Water Code, is amended to
10 read as follows:

11 Sec. 26.405. POWERS AND DUTIES OF COMMITTEE. (a) The
12 committee shall, on a continuing basis:

13 (1) coordinate groundwater protection activities of
14 the agencies represented on the committee;

15 (2) develop and update a comprehensive groundwater
16 protection strategy for the state that provides guidelines for the
17 prevention of contamination and for the conservation of groundwater
18 and that provides for the coordination of the groundwater
19 protection activities of the agencies represented on the committee;

20 (3) study and recommend to the legislature groundwater
21 protection programs for each area in which groundwater is not
22 protected by current regulation;

23 (4) file with the governor, lieutenant governor, and
24 speaker of the house of representatives before the date that each

1 regular legislative session convenes a report of the committee's
2 activities during the two preceding years and any recommendations
3 for legislation for groundwater protection; and

4 (5) publish the joint groundwater monitoring and
5 contamination report required by Section 26.406(c) [~~of this code~~].

6 (b) The committee shall develop and adopt by rule a
7 groundwater classification system that is based on salinity and
8 takes into account:

9 (1) the total dissolved solids present in the water;

10 (2) the geographic location of the water, including
11 the potential for withdrawals to cause subsidence or to negatively
12 affect a freshwater source;

13 (3) existing laws and administrative rules;

14 (4) existing permits and permit requirements for the
15 withdrawal and use of the water;

16 (5) other water quality measurements; and

17 (6) other factors determined to be relevant by the
18 committee.

19 (c) The committee shall update the classification system
20 described by Subsection (b) on a schedule consistent with updates
21 to the state water plan under Section 16.051.

22 SECTION 1.02. Chapter 12, Agriculture Code, is amended by
23 adding Section 12.0165 to read as follows:

24 Sec. 12.0165. RULES RELATING TO GROUNDWATER. In adopting
25 rules relating to groundwater, the department shall consider the
26 classification system adopted by the Texas Groundwater Protection
27 Committee under Section 26.405(b), Water Code.

1 SECTION 1.03. Subchapter B, Chapter 201, Agriculture Code,
2 is amended by adding Section 201.0205 to read as follows:

3 Sec. 201.0205. RULES RELATING TO GROUNDWATER. In adopting
4 rules relating to groundwater, the state board shall consider the
5 classification system adopted by the Texas Groundwater Protection
6 Committee under Section 26.405(b), Water Code.

7 SECTION 1.04. Subchapter C, Chapter 88, Education Code, is
8 amended by adding Section 88.2015 to read as follows:

9 Sec. 88.2015. ACTIONS RELATING TO GROUNDWATER. An
10 experiment station established under Section 88.201 shall consider
11 the classification system adopted by the Texas Groundwater
12 Protection Committee under Section 26.405(b), Water Code, in
13 carrying out the purposes of this subchapter.

14 SECTION 1.05. Subchapter A, Chapter 341, Health and Safety
15 Code, is amended by adding Section 341.003 to read as follows:

16 Sec. 341.003. RULES RELATING TO GROUNDWATER. In adopting
17 rules relating to groundwater, the executive commissioner of the
18 Health and Human Services Commission shall consider the
19 classification system adopted by the Texas Groundwater Protection
20 Committee under Section 26.405(b), Water Code.

21 SECTION 1.06. Subchapter C, Chapter 81, Natural Resources
22 Code, is amended by adding Section 81.071 to read as follows:

23 Sec. 81.071. RULES RELATING TO GROUNDWATER. In adopting
24 rules relating to groundwater, the commission shall consider the
25 classification system adopted by the Texas Groundwater Protection
26 Committee under Section 26.405(b), Water Code.

27 SECTION 1.07. Subchapter D, Chapter 51, Occupations Code,

1 is amended by adding Section 51.2045 to read as follows:

2 Sec. 51.2045. RULES RELATING TO GROUNDWATER. In adopting
3 rules relating to groundwater, the commission shall consider the
4 classification system adopted by the Texas Groundwater Protection
5 Committee under Section 26.405(b), Water Code.

6 SECTION 1.08. Subchapter D, Chapter 5, Water Code, is
7 amended by adding Section 5.1032 to read as follows:

8 Sec. 5.1032. RULES RELATING TO GROUNDWATER. In adopting
9 rules relating to groundwater, the commission shall consider the
10 classification system adopted by the Texas Groundwater Protection
11 Committee under Section 26.405(b).

12 SECTION 1.09. Subchapter D, Chapter 6, Water Code, is
13 amended by adding Section 6.116 to read as follows:

14 Sec. 6.116. RULES RELATING TO GROUNDWATER. In adopting
15 rules relating to groundwater, the board shall consider the
16 classification system adopted by the Texas Groundwater Protection
17 Committee under Section 26.405(b).

18 ARTICLE 2. REPORT OF ELECTRIC LOGS

19 SECTION 2.01. Section 91.552, Natural Resources Code, is
20 amended by adding Subsection (e) to read as follows:

21 (e) The commission shall submit an annual report of the
22 electric logs collected by the commission under this section to the
23 Texas Water Development Board.

24 SECTION 2.02. Section 91.554, Natural Resources Code, is
25 amended to read as follows:

26 Sec. 91.554. AVAILABILITY OF CONFIDENTIAL ELECTRIC LOGS.

27 If the commission requires an electric log to be filed before the

1 expiration of a period of confidentiality, the commission shall
2 make that electric log available for inspection during the period
3 of confidentiality only to:

4 (1) a person authorized in writing by the operator;
5 ~~and~~

6 (2) members of the commission and its employees in the
7 exercise of their powers and duties under this code; and

8 (3) members of the Texas Water Development Board and
9 its employees in the exercise of their powers and duties under the
10 Water Code.

11 ARTICLE 3. FORMULATION OF DESIRED FUTURE CONDITIONS

12 SECTION 3.01. Section 36.101(a), Water Code, is amended to
13 read as follows:

14 (a) A district may make and enforce rules, including rules
15 limiting groundwater production based on tract size or the spacing
16 of wells, to provide for conserving, preserving, protecting, and
17 recharging of the groundwater or of a groundwater reservoir or its
18 subdivisions in order to control subsidence, prevent degradation of
19 water quality, or prevent waste of groundwater and to carry out the
20 powers and duties provided by this chapter. In adopting a rule
21 under this chapter, a district shall:

22 (1) consider all groundwater uses and needs;

23 (2) develop rules that are fair and impartial;

24 (3) consider the groundwater ownership and rights
25 described by Section 36.002;

26 (4) consider the public interest in conservation,
27 preservation, protection, recharging, and prevention of waste of

1 groundwater, and of groundwater reservoirs or their subdivisions,
2 and in controlling subsidence caused by withdrawal of groundwater
3 from those groundwater reservoirs or their subdivisions,
4 consistent with the objectives of Section 59, Article XVI, Texas
5 Constitution;

6 (5) consider the goals developed as part of the
7 district's management plan under Section 36.1071; ~~and~~

8 (6) not discriminate between land that is irrigated
9 for production and land that was irrigated for production and
10 enrolled or participating in a federal conservation program; and

11 (7) consider the classification system adopted by the
12 Texas Groundwater Protection Committee under Section 26.405(b).

13 SECTION 3.02. Section 36.108, Water Code, is amended by
14 adding Subsection (c-1) and amending Subsections (d) and (d-1) to
15 read as follows:

16 (c-1) The development board shall develop technical
17 guidance documents to assist districts in formulating and adopting
18 desired future conditions, including guidance documents for
19 establishing different desired future conditions for different
20 classifications of groundwater in the classification system
21 adopted by the Texas Groundwater Protection Committee under Section
22 26.405(b), and shall make the guidance documents available to the
23 districts.

24 (d) Not later than September 1, 2010, and every five years
25 thereafter, the districts shall consider groundwater availability
26 models and other data or information for the management area and
27 shall propose for adoption desired future conditions for the

1 relevant aquifers within the management area. Before voting on the
2 proposed desired future conditions of the aquifers under Subsection
3 (d-2), the districts shall consider:

4 (1) aquifer uses or conditions within the management
5 area, including conditions that differ substantially from one
6 geographic area to another;

7 (2) the water supply needs and water management
8 strategies included in the state water plan;

9 (3) hydrological conditions, including for each
10 aquifer in the management area the total estimated recoverable
11 storage as provided by the executive administrator, and the average
12 annual recharge, inflows, and discharge;

13 (4) other environmental impacts, including impacts on
14 spring flow and other interactions between groundwater and surface
15 water;

16 (5) the impact on subsidence;

17 (6) socioeconomic impacts reasonably expected to
18 occur;

19 (7) the impact on the interests and rights in private
20 property, including ownership and the rights of management area
21 landowners and their lessees and assigns in groundwater as
22 recognized under Section 36.002;

23 (8) the feasibility of achieving the desired future
24 condition; ~~and~~

25 (9) the technical guidance documents developed by the
26 development board under Subsection (c-1); and

27 (10) any other information relevant to the specific

1 desired future conditions.

2 (d-1) The districts may establish different desired future
3 conditions for:

4 (1) each aquifer, subdivision of an aquifer, or
5 geologic strata located in whole or in part within the boundaries of
6 the management area; ~~or~~

7 (2) each geographic area overlying an aquifer in whole
8 or in part or subdivision of an aquifer within the boundaries of the
9 management area; or

10 (3) each classification of groundwater in the
11 classification system adopted by the Texas Groundwater Protection
12 Committee under Section 26.405(b).

13 ARTICLE 4. TRANSITION AND EFFECTIVE DATE

14 SECTION 4.01. (a) Not later than December 31, 2015, the
15 Texas Groundwater Protection Committee by rule shall adopt the
16 groundwater classification system required by Section 26.405,
17 Water Code, as amended by this Act.

18 (b) Not later than August 31, 2016, the Texas Water
19 Development Board shall develop and make available technical
20 guidance documents as required by Section 36.108, Water Code, as
21 amended by this Act.

22 SECTION 4.02. This Act takes effect September 1, 2015.