

By: Estes

S.B. No. 1588

A BILL TO BE ENTITLED

AN ACT

relating to the management of the water resources of the state.

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

SECTION 1. The heading to Chapter 1502, Government Code, is amended to read as follows:

CHAPTER 1502. PUBLIC SECURITIES FOR MUNICIPAL UTILITIES, PARKS,

~~[OR]~~ POOLS, OR WATER CONSERVATION INFRASTRUCTURE

SECTION 2. Section 1502.001, Government Code, is amended by adding Subdivision (4) to read as follows:

(4) "Water conservation infrastructure" means property, interests in property, buildings, structures, activities, services, operations, or other facilities owned by a municipality or any person contracting with a municipality that is found by the governing body of the municipality to conserve, preserve, or treat water, wastewater, stormwater, or other water resources of the municipality.

SECTION 3. The heading to Section 1502.002, Government Code, is amended to read as follows:

Sec. 1502.002. GENERAL AUTHORITY FOR UTILITY SYSTEMS, PARKS, ~~[AND]~~ POOLS, AND WATER CONSERVATION INFRASTRUCTURE.

SECTION 4. Section 1502.002(a), Government Code, is amended to read as follows:

(a) A municipality may acquire, purchase, construct, improve, enlarge, equip, operate, or maintain any property,

1 including channels or bodies of water known as resacas, interests  
2 in property, buildings, structures, activities, services,  
3 operations, or other facilities, with respect to:

- 4 (1) a utility system;
- 5 (2) a park; [~~or~~]
- 6 (3) a swimming pool; or
- 7 (4) water conservation infrastructure.

8 SECTION 5. Subchapter A, Chapter 1502, Government Code, is  
9 amended by adding Sections 1502.005 and 1502.006 to read as  
10 follows:

11 Sec. 1502.005. DECLARATION OF PUBLIC PURPOSE. Under  
12 Section 52-a, Article III, Texas Constitution, a municipality may  
13 undertake to provide or provide funding for water conservation  
14 infrastructure in accordance with this chapter that the  
15 municipality determines to be:

- 16 (1) in furtherance of the development and  
17 diversification of the economy of the municipality;
- 18 (2) in furtherance of the conservation, preservation,  
19 or treatment of water resources of the municipality; and
- 20 (3) beneficial to the operation of its utility system.

21 Sec. 1502.006. ADDITIONAL POWERS RELATED TO PROVISION OF  
22 WATER CONSERVATION INFRASTRUCTURE. A municipality may exercise any  
23 power granted to the municipality by Chapter 380, Local Government  
24 Code, in providing or providing funding for water conservation  
25 infrastructure under this chapter.

26 SECTION 6. The heading to Subchapter B, Chapter 1502,  
27 Government Code, is amended to read as follows:

1 SUBCHAPTER B. PUBLIC SECURITIES FOR UTILITY SYSTEMS, PARKS, [~~OR~~]  
2 POOLS, OR WATER CONSERVATION INFRASTRUCTURE

3 SECTION 7. Section 1502.051(a), Government Code, is amended  
4 to read as follows:

5 (a) The governing body of a municipality may provide funds  
6 to acquire, purchase, construct, improve, renovate, enlarge, or  
7 equip property, buildings, structures, facilities, or related  
8 infrastructure for:

- 9 (1) a utility system;
- 10 (2) a park; [~~or~~]
- 11 (3) a swimming pool; or
- 12 (4) water conservation infrastructure.

13 SECTION 8. Section 1502.052(a), Government Code, is amended  
14 to read as follows:

15 (a) The governing body of a municipality may pledge to the  
16 payment of any public securities issued or any obligations incurred  
17 under Section 1502.051(c) all or any part of the revenue of:

- 18 (1) a utility system;
- 19 (2) a park; [~~or~~]
- 20 (3) a swimming pool; or
- 21 (4) water conservation infrastructure.

22 SECTION 9. Section 1502.053, Government Code, is amended to  
23 read as follows:

24 Sec. 1502.053. GRANT OF FRANCHISE. As additional security  
25 for public securities issued or obligations incurred under this  
26 chapter, the municipality by the terms of the encumbrance may grant  
27 a purchaser under sale or foreclosure a franchise to operate the

1 encumbered utility system, park, [~~or~~] pool, or water conservation  
2 infrastructure for a term not to exceed 20 years from the date of  
3 purchase, subject to all laws regulating the operation of the  
4 utility system, park, [~~or~~] pool, or water conservation  
5 infrastructure in force at the time of the sale or foreclosure.

6 SECTION 10. Section 1502.054(a), Government Code, is  
7 amended to read as follows:

8 (a) A public security issued or an obligation incurred under  
9 this chapter:

10 (1) is not a debt of the municipality;

11 (2) may be a charge only on the encumbered utility  
12 system, park, [~~or~~] pool, or water conservation infrastructure; and

13 (3) may not be included in determining the  
14 municipality's power to issue public securities for any purpose  
15 authorized by law.

16 SECTION 11. Section 1502.055(a), Government Code, is  
17 amended to read as follows:

18 (a) Unless authorized by a majority vote of the qualified  
19 voters of the municipality, a municipality may not sell a utility  
20 system, park, [~~or~~] pool, or municipally owned water conservation  
21 infrastructure.

22 SECTION 12. Section 1502.056(a), Government Code, is  
23 amended to read as follows:

24 (a) If the revenue of a utility system, park, [~~or~~] swimming  
25 pool, or water conservation infrastructure secures the payment of  
26 public securities issued or obligations incurred under this  
27 chapter, each expense of operation and maintenance, including all

1 salaries, labor, materials, interest, repairs and extensions  
2 necessary to provide efficient service, and each proper item of  
3 expense, is a first lien against that revenue. For a municipality  
4 with a population of more than one million but less than two  
5 million, the first lien against the revenue of a municipally owned  
6 utility system that secures the payment of public securities issued  
7 or obligations incurred under this chapter also applies to funding,  
8 as a necessary operations expense, for a bill payment assistance  
9 program for utility system customers who:

10 (1) have been threatened with disconnection from  
11 service for nonpayment of bills and who have been determined by the  
12 municipality to be low-income customers; or

13 (2) are military veterans who have significantly  
14 decreased abilities to regulate their bodies' core temperatures  
15 because of severe burns received in combat.

16 SECTION 13. Sections 1502.058(a) and (c), Government Code,  
17 are amended to read as follows:

18 (a) Except as provided by Subsection (b) or (c), by Section  
19 1502.059, or by Section 271.052, Local Government Code, a  
20 municipality may not use the revenue of a utility system, park, ~~or~~  
21 swimming pool, or water conservation infrastructure to pay any  
22 other debt, expense, or obligation of the municipality until the  
23 debt secured by the revenue is finally paid.

24 (c) This section does not apply to a payment made from  
25 surplus revenue of a utility system, park, ~~or~~ swimming pool, or  
26 water conservation infrastructure, as provided by the proceedings  
27 authorizing the issuance of public securities under this chapter.

1 SECTION 14. Section 1502.060(a), Government Code, is  
2 amended to read as follows:

3 (a) To the extent provided by the proceedings authorizing  
4 the issuance of the public securities issued under this chapter, a  
5 municipality may:

6 (1) use proceeds from the sale of public securities  
7 issued to provide funds for a utility system under this chapter for  
8 any purpose authorized by Section 1502.051(a)(1) or (b);

9 (2) use proceeds from the sale of public securities  
10 issued to provide funds for a park under this chapter for any  
11 purpose authorized by Section 1502.051(a)(2); ~~or~~

12 (3) use proceeds from the sale of public securities to  
13 provide funds for a swimming pool under this chapter for any purpose  
14 authorized by Section 1502.051(a)(3); or

15 (4) use proceeds from the sale of public securities  
16 issued to provide funds for water conservation infrastructure under  
17 this chapter for any purpose authorized by Section 1502.006 or  
18 1502.051(a)(4).

19 SECTION 15. Section 1502.066, Government Code, is amended  
20 to read as follows:

21 Sec. 1502.066. RECORDS. The mayor of the municipality  
22 shall establish and maintain a complete system of records for a  
23 utility system, park, ~~or~~ swimming pool, or water conservation  
24 infrastructure the revenue of which is encumbered under this  
25 chapter that:

26 (1) shows any free service provided and the value of  
27 the free service; and

1           (2) shows separately the amounts spent and the amounts  
2 set aside for operation, salaries, labor, materials, repairs,  
3 maintenance, depreciation, replacements, extensions, interest, and  
4 the creation of a sinking fund to pay the public securities and  
5 debt.

6           SECTION 16. Section 1502.068, Government Code, is amended  
7 to read as follows:

8           Sec. 1502.068. ANNUAL REPORT. (a) Annually, on the date  
9 determined by the governing body of the municipality, the  
10 superintendent or manager of a utility system, park, ~~or~~ pool, or  
11 water conservation infrastructure or another person designated by  
12 the governing body shall file with the mayor and governing body of  
13 the municipality a detailed report of the operation of the system,  
14 park, ~~or~~ pool, or water conservation infrastructure for the  
15 preceding 12-month period specified by the governing body.

16           (b) The report must show the total amount of money collected  
17 and the balance due, and the total disbursements made and the  
18 amounts remaining unpaid, resulting from the operation of the  
19 utility system, park, ~~or~~ pool, or water conservation  
20 infrastructure during that year.

21           (c) If the municipality provides loans or grants of public  
22 money to persons to acquire, purchase, construct, improve,  
23 renovate, enlarge, or equip water conservation infrastructure, the  
24 report must contain:

25                   (1) the types of water conservation infrastructure  
26 projects funded;

27                   (2) the controls imposed by the municipality on the

1 persons receiving loans or grants to ensure that the public  
2 purposes described by Section 1502.005 are being carried out; and  
3 (3) an analysis of the results of how the funded water  
4 conservation infrastructure projects achieved the intended results  
5 in furtherance of the public purposes described by Section  
6 1502.005.

7 SECTION 17. Section 1502.069(a), Government Code, is  
8 amended to read as follows:

9 (a) A mayor commits an offense if the mayor fails to:

10 (1) establish the system of records required by  
11 Section 1502.066 before the 91st day after the date the utility  
12 system, park, ~~or~~ pool, or water conservation infrastructure is  
13 completed; or

14 (2) maintain the system of records required by Section  
15 1502.066.

16 SECTION 18. Section 1502.074, Government Code, is amended  
17 to read as follows:

18 Sec. 1502.074. CIVIL ENFORCEMENT. A person who resides in a  
19 municipality and is a taxpayer or holder of a public security issued  
20 or an obligation incurred under this chapter and secured by the  
21 revenue of the municipality's utility system, park, ~~or~~ swimming  
22 pool, or water conservation infrastructure as provided by this  
23 chapter is entitled to enforce this chapter by appropriate civil  
24 action in a district court in the county in which the municipality  
25 is located.

26 SECTION 19. Section 341.039, Health and Safety Code, is  
27 amended by adding Subsection (a-1) and amending Subsection (c) to



1 read as follows:

2 (a-1) The standards adopted by the commission under  
3 Subsection (a)(2) must permit the use of graywater for toilet and  
4 urinal flushing.

5 (c) The commission may not require a permit for the domestic  
6 use of less than 400 gallons of graywater each day if the graywater:

7 (1) originates from a private residence;

8 (2) is used by the occupants of that residence for  
9 gardening, composting, ~~or~~ landscaping, or toilet or urinal  
10 flushing at the residence;

11 (3) is collected using a system that overflows into a  
12 sewage collection or on-site wastewater treatment and disposal  
13 system;

14 (4) is stored in tanks that:

15 (A) are clearly labeled as nonpotable water;

16 (B) restrict access, especially to children; and

17 (C) eliminate habitat for mosquitoes and other  
18 vectors;

19 (5) uses piping clearly identified as a nonpotable  
20 water conduit, including identification through the use of purple  
21 pipe, purple tape, or similar markings;

22 (6) is generated without the formation of ponds or  
23 pools of graywater;

24 (7) does not create runoff across the property lines  
25 or onto any paved surface; and

26 (8) is distributed by a surface or subsurface system  
27 that does not spray into the air.

1 SECTION 20. Section 11.085(v), Water Code, is amended to  
2 read as follows:

3 (v) The provisions of this section, except Subsection (a),  
4 do not apply to:

5 (1) a proposed transfer which in combination with any  
6 existing transfers totals less than 3,000 acre-feet of water per  
7 annum from the same permit, certified filing, or certificate of  
8 adjudication;

9 (2) a request for an emergency transfer of water;

10 (3) a proposed transfer from a basin to its adjoining  
11 coastal basin;

12 (4) a proposed transfer from the part of the  
13 geographic area of a county or municipality, or the part of the  
14 retail service area of a retail public utility as defined by Section  
15 13.002, that is within the basin of origin for use in that part of  
16 the geographic area of the county or municipality, or that  
17 contiguous part of the retail service area of the utility, not  
18 within the basin of origin; ~~or~~

19 (5) a proposed transfer of water that is:

20 (A) imported from a source located wholly outside  
21 the boundaries of this state, except water that is imported from a  
22 source located in the United Mexican States;

23 (B) for use in this state; and

24 (C) transported by using the bed and banks of any  
25 flowing natural stream located in this state; or

26 (6) a proposed transfer from a basin to another basin  
27 identified as a water management strategy or an alternate water

1 management strategy in the state water plan.

2 SECTION 21. Subchapter E, Chapter 13, Water Code, is  
3 amended by adding Section 13.1461 to read as follows:

4 Sec. 13.1461. CORRECTIONAL FACILITY COMPLIANCE WITH  
5 CONSERVATION MEASURES. A retail public utility may require the  
6 operator of a correctional facility, as defined by Section  
7 1.07(14), Penal Code, that receives retail water or sewer utility  
8 service from the retail public utility to comply with water  
9 conservation measures adopted or implemented by the retail public  
10 utility.

11 SECTION 22. Subchapter J, Chapter 15, Water Code, is  
12 amended by adding Section 15.6042 to read as follows:

13 Sec. 15.6042. CROSS-COLLATERALIZATION OF FUNDS. (a) In  
14 this section, "state revolving fund bonds" means revenue bonds  
15 issued by the board to provide funds for the revolving fund, the  
16 safe drinking water revolving fund, or an additional state  
17 revolving fund.

18 (b) Notwithstanding any other law to the contrary, the board  
19 by resolution may approve the use of assets of the revolving fund,  
20 the safe drinking water revolving fund, or an additional state  
21 revolving fund as a source of revenue or security, or both revenue  
22 and security, for the payment of the principal of and interest on  
23 state revolving fund bonds.

24 SECTION 23. Section 26.0311, Water Code, is amended by  
25 adding Subsection (b-1) to read as follows:

26 (b-1) The standards adopted by the commission under  
27 Subsection (b)(2) must permit the use of graywater for toilet and

1 urinal flushing.

2 SECTION 24. Subchapter B, Chapter 27, Water Code, is  
3 amended by adding Section 27.026 to read as follows:

4 Sec. 27.026. DUAL AUTHORIZATION OF INJECTION WELLS TO  
5 INJECT NONHAZARDOUS BRINE FROM DESALINATION OPERATIONS OR  
6 NONHAZARDOUS DRINKING WATER TREATMENT RESIDUALS. (a) The  
7 commission may authorize by individual permit, by general permit,  
8 or by rule a Class V injection well for the injection of  
9 nonhazardous brine from a desalination operation or nonhazardous  
10 drinking water treatment residuals into a Class II injection well  
11 that is also permitted by the railroad commission under Subchapter  
12 C.

13 (b) The commission and railroad commission by rule shall  
14 enter or amend a memorandum of understanding to implement and  
15 administer this section.

16 SECTION 25. Section 36.001, Water Code, is amended by  
17 amending Subdivisions (8) and (16) and adding Subdivision (31) to  
18 read as follows:

19 (8) "Waste" means any one or more of the following:

20 (A) withdrawal of groundwater from a groundwater  
21 reservoir at a rate and in an amount that causes or threatens to  
22 cause intrusion into the reservoir of water unsuitable for  
23 agricultural, gardening, domestic, or stock raising purposes;

24 (B) the flowing or producing of wells from a  
25 groundwater reservoir if the water produced is not used for a  
26 beneficial purpose;

27 (C) escape of groundwater from a groundwater

1 reservoir to any other reservoir or geologic strata that does not  
2 contain groundwater;

3 (D) pollution or harmful alteration of  
4 groundwater in a groundwater reservoir by saltwater or by other  
5 deleterious matter admitted from another stratum or from the  
6 surface of the ground;

7 (E) willfully [~~wilfully~~] or negligently causing,  
8 suffering, or allowing groundwater to escape into any river, creek,  
9 natural watercourse, depression, lake, reservoir, drain, sewer,  
10 street, highway, road, or road ditch, or onto any land other than  
11 that of the owner of the well unless such discharge is authorized by  
12 permit, rule, or order issued by the commission under Chapter 26;

13 (F) groundwater pumped for irrigation that  
14 escapes as irrigation tailwater onto land other than that of the  
15 owner of the well unless permission has been granted by the occupant  
16 of the land receiving the discharge; or

17 (G) for water produced from an artesian well,  
18 "waste" also has the meaning assigned by Section [11.205](#).

19 (16) "Loan fund" means the groundwater conservation  
20 district loan assistance fund created under Section [36.371](#).

21 (31) "Operating permit" as used in this chapter means  
22 any type of permit issued by a district that relates to the  
23 operation of or production from a water well, which may include  
24 authorization to drill or complete a water well if the district  
25 does not require a separate permit for drilling or completing a  
26 water well.

27 SECTION 26. Section [36.017](#)(i), Water Code, is amended to

1 read as follows:

2 (i) If a majority of the votes cast at the election are  
3 against the levy of a maintenance tax, the district shall set  
4 ~~[production]~~ fees authorized by this chapter to pay for the  
5 district's regulation of groundwater in the district~~[, including~~  
6 ~~fees based on the amount of water to be withdrawn from a well]~~.

7 SECTION 27. Section 36.0171(h), Water Code, is amended to  
8 read as follows:

9 (h) If the majority of the votes cast at the election are  
10 against the levy of a maintenance tax, the district shall set  
11 ~~[production]~~ fees authorized by this chapter in accordance with  
12 Section 35.013(g-1) to pay for the district's regulation of  
13 groundwater in the district~~[, including fees based on the amount of~~  
14 ~~water to be withdrawn from a well]~~.

15 SECTION 28. Section 36.058, Water Code, is amended to read  
16 as follows:

17 Sec. 36.058. CONFLICTS OF INTEREST. A director of a  
18 district is subject to the provisions of Chapters ~~[Chapter]~~ 171 and  
19 176, Local Government Code, relating to the regulation of conflicts  
20 of officers of local governments.

21 SECTION 29. Section 36.061(a), Water Code, is amended to  
22 read as follows:

23 (a) Subject to the law governing the district, the board  
24 shall adopt the following in writing:

25 (1) a code of ethics for district directors, officers,  
26 employees, and persons who are engaged in handling investments for  
27 the district;

1 (2) a policy relating to travel expenditures;

2 (3) a policy relating to district investments that  
3 ensures that:

4 (A) purchases and sales of investments are  
5 initiated by authorized individuals, conform to investment  
6 objectives and regulations, and are properly documented and  
7 approved; and

8 (B) periodic review is made of district  
9 investments to evaluate investment performance and security;

10 (4) policies and procedures for selection,  
11 monitoring, or review and evaluation of professional services; and

12 (5) policies that ensure a better use of management  
13 information, including:

14 (A) budgets for use in planning and controlling  
15 cost; and

16 (B) an audit or finance committee of the board. [~~+~~  
17 and

18 [~~(C) uniform reporting requirements that use  
19 "Audits of State and Local Governmental Units" as a guide on audit  
20 working papers and that uses "Governmental Accounting and Financial  
21 Reporting Standards."~~]

22 SECTION 30. Section 36.116(c), Water Code, is amended to  
23 read as follows:

24 (c) In regulating the production of groundwater based on  
25 tract size or acreage, a district may consider the service needs or  
26 service area of a retail public [~~water~~] utility. For the purposes  
27 of this subsection, "retail public [~~water~~] utility" shall have the

1 meaning provided by ~~at~~ Section 13.002.

2 SECTION 31. Sections 36.117(a) and (d), Water Code, are  
3 amended to read as follows:

4 (a) A district by rule may provide an exemption from the  
5 district's requirement to obtain ~~[a drilling permit, an operating~~  
6 ~~permit, or]~~ any ~~[other]~~ permit required by this chapter or the  
7 district's rules.

8 (d) A district may cancel a previously granted exemption~~[7]~~  
9 and may require an operating permit for or restrict production from  
10 a well and assess any appropriate fees~~[7]~~ if:

11 (1) ~~[the well is located in the Hill Country Priority~~  
12 ~~Groundwater Management Area and]~~ the groundwater withdrawals that  
13 were exempted under Subsection (b)(1) are no longer used solely for  
14 domestic use or to provide water for livestock or poultry;

15 (2) the groundwater withdrawals that were exempted  
16 under Subsection (b)(2) are no longer used solely to supply water  
17 for a rig that is actively engaged in drilling or exploration  
18 operations for an oil or gas well permitted by the Railroad  
19 Commission of Texas; or

20 (3) the groundwater withdrawals that were exempted  
21 under Subsection (b)(3) are no longer necessary for mining  
22 activities or are greater than the amount necessary for mining  
23 activities specified in the permit issued by the Railroad  
24 Commission of Texas under Chapter 134, Natural Resources Code.

25 SECTION 32. Section 36.122(e), Water Code, is amended to  
26 read as follows:

27 (e) The district may impose an export ~~[a reasonable]~~ fee or



1 surcharge [~~for an export fee~~] using one of the following methods:

2 (1) a fee negotiated between the district and the  
3 exporter [~~transporter~~];

4 (2) a rate not to exceed the equivalent of the  
5 district's tax rate per hundred dollars of valuation for each  
6 thousand gallons of water exported from [~~transferred out of~~] the  
7 district or 2.5 cents per thousand gallons of water, if the district  
8 assesses a tax rate of less than 2.5 cents per hundred dollars of  
9 valuation; or

10 (3) for a fee-based district, a 50 percent [~~export~~]  
11 surcharge, in addition to the district's production fee, for water  
12 exported from [~~transferred out of~~] the district.

13 SECTION 33. Sections 36.153(a), (b), and (d), Water Code,  
14 are amended to read as follows:

15 (a) Annually and subject to Subsection (c), the board shall  
16 have an audit made of the financial condition of the district. The  
17 district audit shall be performed according to the generally  
18 accepted government auditing standards adopted by the American  
19 Institute of Certified Public Accountants.

20 (b) Financial statements shall be prepared in accordance  
21 with generally accepted accounting principles as adopted by the  
22 American Institute of Certified Public Accountants. The annual  
23 audit and other district records must be open to inspection during  
24 regular business hours at the principal office of the district.

25 (d) A financially dormant district may elect not to conduct  
26 an audit and instead submit to the executive director a financial  
27 dormancy affidavit [~~instead of complying with the audit~~

1 ~~requirements of Section 49.191]~~.

2 SECTION 34. Section 36.157(a), Water Code, is amended to  
3 read as follows:

4 (a) A district, or the county or counties where the district  
5 is to be located, may pay all costs and expenses necessarily  
6 incurred in the creation and organization of a district, including  
7 legal fees and other incidental expenses, and may reimburse any  
8 person, including a county, for money advanced for these purposes.

9 SECTION 35. Section 36.159, Water Code, is amended to read  
10 as follows:

11 Sec. 36.159. GROUNDWATER CONSERVATION DISTRICT MANAGEMENT  
12 PLAN FUNDS. The Texas Water Development Board may allocate funds  
13 from the water assistance fund to a district to:

14 (1) conduct initial data collections under this  
15 chapter;

16 (2) [~~to~~] develop and implement a long-term  
17 management plan under Section 36.1071; [~~and~~]

18 (3) [~~to~~] participate in regional water plans.

19 SECTION 36. Section 36.204, Water Code, is amended by  
20 adding Subsection (c) to read as follows:

21 (c) Sections 26.04(c)-(j), 26.05(b), (c), (d), (e), and  
22 (g), and 26.07, Tax Code, do not apply to a tax levied and collected  
23 under this chapter or an ad valorem tax levied and collected for the  
24 payment of the interest on and principal of bonds issued by a  
25 district.

26 SECTION 37. Sections 36.205(f) and (g), Water Code, are  
27 amended to read as follows:

1 (f) A district, including a district described under  
2 Subsection (d), may assess a production fee under Subsection (c)  
3 and an export fee under Subsection (g), if applicable, for any water  
4 produced under an exemption under Section 36.117 if that water is  
5 subsequently sold to another person.

6 (g) A district may assess an export [~~a transportation~~] fee  
7 under Section 36.122.

8 SECTION 38. Section 36.206(a), Water Code, is amended to  
9 read as follows:

10 (a) A temporary board may set [~~user~~] fees authorized by this  
11 chapter to pay for the creation and initial operation of a district,  
12 until such time as the district creation has been confirmed and a  
13 permanent board has been elected by a majority vote of the qualified  
14 voters voting in the district in an election called for those  
15 purposes.

16 SECTION 39. Section 36.207, Water Code, is amended to read  
17 as follows:

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

27 SECTION 40. Section 36.251, Water Code, is amended to read

1 as follows:

2 Sec. 36.251. SUIT AGAINST DISTRICT. (a) A person, firm,  
3 corporation, or association of persons affected by and dissatisfied  
4 with any [~~provision or with any~~] rule or order made by a district,  
5 including an appeal of a decision on a permit application, is  
6 entitled to file a suit against the district or its directors to  
7 challenge the validity of the law, rule, or order.

8 (b) Only the district, the applicant, and parties to a  
9 contested case hearing may participate in an appeal of a decision on  
10 the application that was the subject of that contested case  
11 hearing. An appeal of a decision on a permit application must  
12 include the applicant as a necessary party.

13 (c) The suit shall be filed in a court of competent  
14 jurisdiction in any county in which the district or any part of the  
15 district is located. The suit may only be filed after all  
16 administrative appeals to the district are final.

17 SECTION 41. Section 36.3011, Water Code, is amended to read  
18 as follows:

19 Sec. 36.3011. COMMISSION INQUIRY AND ACTION REGARDING  
20 DISTRICT DUTIES. (a) In this section, "affected person" means, with  
21 respect to a management area:

- 22 (1) an owner of land in the management area;  
23 (2) a groundwater conservation district or subsidence  
24 district in or adjacent to the management area;  
25 (3) a regional water planning group with a water  
26 management strategy in the management area;  
27 (4) a person who holds or is applying for a permit from

1 a district in the management area;

2 (5) a person with a legally defined interest in  
3 groundwater in the management area; or

4 (6) any other person defined as affected by commission  
5 rule.

6 (b) An affected person may file a petition with the  
7 commission requesting an inquiry for any of the following reasons:

8 (1) a district fails to submit its management plan to  
9 the executive administrator;

10 (2) a district fails to participate in the joint  
11 planning process under Section 36.108;

12 (3) a district fails to adopt rules;

13 (4) a district fails to adopt the applicable desired  
14 future conditions adopted by the management area at a joint  
15 meeting;

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

19 (6) a district fails to update its rules to implement  
20 the applicable desired future conditions before the first  
21 anniversary of the date it updated its management plan with the  
22 adopted desired future conditions;

23 (7) the rules adopted by a district are not designed to  
24 achieve the adopted desired future conditions;

25 (8) the groundwater in the management area is not  
26 adequately protected by the rules adopted by a district; or

27 (9) the groundwater in the management area is not

1 adequately protected due to the failure of a district to enforce  
2 substantial compliance with its rules.

3 (c) Not later than the 90th day after the date the petition  
4 is filed, the commission shall review the petition and either:

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

8 (2) select a review panel as provided in Subsection  
9 (d).

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

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

1 lawful means.

2 (f) In its report, the review panel shall include:

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

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

8 (3) any other information the panel considers  
9 appropriate.

10 (g) The review panel shall submit its report to the  
11 commission.

12 (h) Not later than the 45th day after receiving the review  
13 panel's report under this section [~~Section 36.1082~~], the executive  
14 director or the commission shall take action to implement any or all  
15 of the panel's recommendations. The commission may take any action  
16 against a district it considers necessary in accordance with  
17 Section 36.303 if the commission finds that:

18 (1) the district has failed to submit its management  
19 plan to the executive administrator;

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

22 (3) the district has failed to adopt rules;

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

26 (5) the district has failed to update its management  
27 plan before the second anniversary of the adoption of desired

1 future conditions by the management area;

2 (6) the district has failed to update its rules to  
3 implement 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) the rules adopted by the district are not designed  
7 to achieve the desired future conditions adopted by the management  
8 area during the joint planning process;

9 (8) the groundwater in the management area is not  
10 adequately protected by the rules adopted by the district; or

11 (9) the groundwater in the management area is not  
12 adequately protected because of the district's failure to enforce  
13 substantial compliance with its rules.

14 SECTION 42. Section [36.303](#)(a), Water Code, is amended to  
15 read as follows:

16 (a) If Section [~~[36.108](#)~~] [36.301](#), [36.3011](#), or [36.302](#)(f)  
17 applies, the commission, after notice and hearing in accordance  
18 with Chapter 2001, Government Code, shall take action the  
19 commission considers appropriate, including:

20 (1) issuing an order requiring the district to take  
21 certain actions or to refrain from taking certain actions;

22 (2) dissolving the board in accordance with Sections  
23 [36.305](#) and [36.307](#) and calling an election for the purpose of  
24 electing a new board;

25 (3) requesting the attorney general to bring suit for  
26 the appointment of a receiver to collect the assets and carry on the  
27 business of the groundwater conservation district; or



1 (4) dissolving the district in accordance with  
2 Sections 36.304, 36.305, and 36.308.

3 SECTION 43. Section 36.321, Water Code, is amended to read  
4 as follows:

5 Sec. 36.321. ADDING LAND BY PETITION OF LANDOWNER. Subject  
6 to Section 36.331, the [The] owner of land not already in  
7 [contiguous to] a district may file with the board a notarized  
8 petition requesting that the owner's land be included in the  
9 district. The petition must describe the land by legal description  
10 or by metes and bounds or by lot and block number if there is a  
11 recorded plat of the area to be included in the district.

12 SECTION 44. Section 36.325, Water Code, is amended to read  
13 as follows:

14 Sec. 36.325. ADDING CERTAIN TERRITORY BY PETITION.  
15 (a) Landowners of a defined area of territory not already in a  
16 district may file with any district a petition requesting inclusion  
17 in that district and, subject to Section 36.331, the defined area of  
18 territory is not required to be contiguous with that district.

19 (b) The petition must be signed by:

- 20 (1) a majority of the landowners in the territory;  
21 (2) at least 50 landowners if the number of landowners  
22 is more than 50; or  
23 (3) the commissioners court of the county in which the  
24 area is located if the area is identified as a priority groundwater  
25 management area or includes the entire county.

26 (c) The petition must describe the land by legal description  
27 or by metes and bounds or by lot and block number if there is a

1 recorded plat of the area to be included in the district.

2 SECTION 45. Section 36.328(a), Water Code, is amended to  
3 read as follows:

4 (a) Annexation of the territory by petition filed under  
5 Section 36.325 is not final until ratified by a majority vote of the  
6 voters in the territory to be added. An election in the existing  
7 district accepting the addition of land is not required.

8 SECTION 46. The heading to Subchapter L, Chapter 36, Water  
9 Code, is amended to read as follows:

10 SUBCHAPTER L. GROUNDWATER CONSERVATION DISTRICT LOAN ASSISTANCE  
11 FUND

12 SECTION 47. Section 36.371, Water Code, is amended to read  
13 as follows:

14 Sec. 36.371. GROUNDWATER CONSERVATION DISTRICT LOAN  
15 ASSISTANCE FUND. (a) The groundwater conservation district loan  
16 assistance fund is created, to be funded by direct appropriation  
17 and by the Texas Water Development Board from the water assistance  
18 fund.

19 (b) Repayments of loans shall be deposited in the water  
20 assistance fund.

21 SECTION 48. Section 36.403, Water Code, is amended to read  
22 as follows:

23 Sec. 36.403. SCHEDULING OF PUBLIC HEARING. (a) The  
24 general manager or board may schedule a public hearing on permit or  
25 permit amendment applications received by the district as  
26 necessary, as provided by Section 36.114.

27 (b) The general manager or board may schedule more than one

1 application for consideration at a public hearing.

2 (c) A public hearing must be held at the district office or  
3 regular meeting location of the board unless the board provides for  
4 hearings to be held at a different location.

5 (d) A public hearing may be held in conjunction with a  
6 regularly scheduled board meeting.

7 SECTION 49. Sections 36.404(a) and (d), Water Code, are  
8 amended to read as follows:

9 (a) If the general manager or board schedules a public  
10 hearing on an application for a permit or permit amendment, the  
11 general manager or board shall give notice of the hearing as  
12 provided by this section.

13 (d) A person may request notice from the district of a  
14 public hearing on a permit or a permit amendment application. The  
15 request must be in writing and is effective for the remainder of the  
16 calendar year in which the request is received by the district. To  
17 receive notice of a public hearing in a later year, a person must  
18 submit a new request. An affidavit of an officer or employee of the  
19 district establishing attempted service by first class mail,  
20 facsimile, or e-mail to the person in accordance with the  
21 information provided by the person is proof that notice was  
22 provided by the district.

23 SECTION 50. Section 36.405, Water Code, is amended to read  
24 as follows:

25 Sec. 36.405. HEARING REGISTRATION. The district may  
26 require each person who participates in a public hearing to submit a  
27 hearing registration form stating:

- 1 (1) the person's name;
- 2 (2) the person's address; and
- 3 (3) whom the person represents, if the person is not
- 4 there in the person's individual capacity.

5 SECTION 51. Subchapter M, Chapter 36, Water Code, is  
6 amended by adding Section 36.4051 to read as follows:

7 Sec. 36.4051. BOARD ACTION; CONTESTED CASE HEARING  
8 REQUESTS; PRELIMINARY HEARING. (a) The board may take action on  
9 any uncontested application at a properly noticed public meeting  
10 held at any time after the public hearing at which the application  
11 is scheduled to be heard. The board may issue a written order to:

- 12 (1) grant the application;
- 13 (2) grant the application with special conditions; or
- 14 (3) deny the application.

15 (b) The board shall schedule a preliminary hearing to hear a  
16 request for a contested case hearing filed in accordance with rules  
17 adopted under Section 36.415. The preliminary hearing may be  
18 conducted by:

- 19 (1) a quorum of the board;
- 20 (2) an individual to whom the board has delegated in  
21 writing the responsibility to preside as a hearing examiner over  
22 the hearing or matters related to the hearing; or
- 23 (3) the State Office of Administrative Hearings under  
24 Section 36.416.

25 (c) Following a preliminary hearing, the board shall  
26 determine whether any person requesting the contested case hearing  
27 has standing to make that request and whether a justiciable issue

1 related to the application has been raised. If the board determines  
2 that no person who requested a contested case hearing had standing  
3 or that no justiciable issues were raised, the board may take any  
4 action authorized under Subsection (a).

5 (d) An applicant may, not later than the 20th day after the  
6 date the board issues an order granting the application, demand a  
7 contested case hearing if the order:

8 (1) includes special conditions that were not part of  
9 the application as finally submitted; or

10 (2) grants a maximum amount of groundwater production  
11 that is less than the amount requested in the application.

12 SECTION 52. Section 36.406(d), Water Code, is amended to  
13 read as follows:

14 (d) The presiding officer may:

15 (1) convene the hearing at the time and place  
16 specified in the notice;

17 (2) set any necessary additional hearing dates;

18 (3) designate the parties regarding a contested  
19 application;

20 (4) establish the order for presentation of evidence;

21 (5) administer oaths to all persons presenting  
22 testimony;

23 (6) examine persons presenting testimony;

24 (7) ensure that information and testimony are  
25 introduced as conveniently and expeditiously as possible without  
26 prejudicing the rights of any party;

27 (8) prescribe reasonable time limits for testimony and

1 the presentation of evidence; ~~and~~

2 (9) exercise the procedural rules adopted under  
3 Section 36.415; and

4 (10) determine how to apportion among the parties the  
5 costs related to:

6 (A) a contract for the services of a presiding  
7 officer; and

8 (B) the preparation of the official hearing  
9 record.

10 SECTION 53. Section 36.410, Water Code, is amended to read  
11 as follows:

12 Sec. 36.410. PROPOSAL FOR DECISION ~~[REPORT]~~. (a) Except  
13 as provided by Subsection (e), the presiding officer shall submit a  
14 proposal for decision ~~[report]~~ to the board not later than the 30th  
15 day after the date the evidentiary ~~a~~ hearing is concluded.

16 (b) The proposal for decision ~~[report]~~ must include:

17 (1) a summary of the subject matter of the hearing;

18 (2) a summary of the evidence or public comments  
19 received; and

20 (3) the presiding officer's recommendations for board  
21 action on the subject matter of the hearing.

22 (c) The presiding officer or general manager shall provide a  
23 copy of the proposal for decision ~~[report]~~ to:

24 (1) the applicant; and

25 (2) each ~~[person who provided comments or each]~~  
26 designated party.

27 (d) A party ~~[person who receives a copy of the report under~~

1 ~~Subsection (e)]~~ may submit to the board written exceptions to the  
2 proposal for decision [~~report~~].

3 (e) If the hearing was conducted by a quorum of the board and  
4 if the presiding officer prepared a record of the hearing as  
5 provided by Section 36.408(a), the presiding officer shall  
6 determine whether to prepare and submit a proposal for decision  
7 [~~report~~] to the board under this section.

8 (f) The board shall consider the proposal for decision at a  
9 final hearing. Additional evidence may not be presented during a  
10 final hearing. The parties may present oral argument at a final  
11 hearing to summarize the evidence, present legal argument, or argue  
12 an exception to the proposal for decision. A final hearing may be  
13 continued as provided by Section 36.409.

14 SECTION 54. Sections 36.412(a), (b), and (c), Water Code,  
15 are amended to read as follows:

16 (a) An applicant in a contested or uncontested hearing on an  
17 application or a party to a contested hearing may administratively  
18 appeal a decision of the board on a permit or permit amendment  
19 application by requesting written findings and conclusions [~~or a~~  
20 ~~rehearing before the board~~] not later than the 20th day after the  
21 date of the board's decision.

22 (b) On receipt of a timely written request, the board shall  
23 make written findings and conclusions regarding a decision of the  
24 board on a permit or permit amendment application. The board shall  
25 provide certified copies of the findings and conclusions to the  
26 person who requested them, and to each [~~person who provided~~  
27 ~~comments or each~~] designated party, not later than the 35th day

1 after the date the board receives the request. A party to a  
2 contested hearing [~~person who receives a certified copy of the~~  
3 ~~findings and conclusions from the board~~] may request a rehearing  
4 [~~before the board~~] not later than the 20th day after the date the  
5 board issues the findings and conclusions.

6 (c) A request for rehearing must be filed in the district  
7 office and must state the grounds for the request. If the original  
8 hearing was a contested hearing, the party [~~person~~] requesting a  
9 rehearing must provide copies of the request to all parties to the  
10 hearing.

11 SECTION 55. Section 36.415(b), Water Code, is amended to  
12 read as follows:

13 (b) In adopting the rules, a district shall:

14 (1) define under what circumstances an application is  
15 considered contested; [~~and~~]

16 (2) limit participation in a hearing on a contested  
17 application to persons who have a personal justiciable interest  
18 related to a legal right, duty, privilege, power, or economic  
19 interest that is within a district's regulatory authority and  
20 affected by a permit or permit amendment application, not including  
21 persons who have an interest common to members of the public; and

22 (3) establish the deadline for a person who may  
23 participate under Subdivision (2) to file in the manner required by  
24 the district a protest and request for a contested case hearing.

25 SECTION 56. Section 36.416, Water Code, is amended by  
26 adding Subsections (d), (e), and (f) to read as follows:

27 (d) An administrative law judge who conducts a contested



1 case hearing shall consider applicable district rules or policies  
2 in conducting the hearing, but the district deciding the case may  
3 not supervise the administrative law judge.

4 (e) A district shall provide the administrative law judge  
5 with a written statement of applicable rules or policies.

6 (f) A district may not attempt to influence the finding of  
7 facts or the administrative law judge's application of the law in a  
8 contested case except by proper evidence and legal argument.

9 SECTION 57. Section 36.4165, Water Code, is amended to read  
10 as follows:

11 Sec. 36.4165. FINAL DECISION; CONTESTED CASE HEARINGS. (a)  
12 In a proceeding for a permit application or amendment in which a  
13 district has contracted with the State Office of Administrative  
14 Hearings for a contested case hearing, the board has the authority  
15 to make a final decision on consideration of a proposal for decision  
16 issued by an administrative law judge [~~consistent with Section~~  
17 ~~2001.058, Government Code~~].

18 (b) A board may change a finding of fact or conclusion of law  
19 made by the administrative law judge, or may vacate or modify an  
20 order issued by the administrative judge, only if the board  
21 determines:

22 (1) that the administrative law judge did not properly  
23 apply or interpret applicable law, district rules, written policies  
24 provided under Section 36.416(e), or prior administrative  
25 decisions;

26 (2) that a prior administrative decision on which the  
27 administrative law judge relied is incorrect or should be changed;

1 or  
2 (3) that a technical error in a finding of fact should  
3 be changed.

4 SECTION 58. Section 36.1082, Water Code, is repealed.

5 SECTION 59. The Texas Water Development Board shall conduct  
6 a study to define the quality and quantity of groundwater in this  
7 state in confined and unconfined aquifers. In conducting the  
8 study, the board shall produce a map that shows the area and water  
9 quality of confined and unconfined groundwater aquifers.

10 SECTION 60. Not later than December 31, 2016, the Texas  
11 Water Development Board shall report the results of the study  
12 conducted under this Act to the lieutenant governor, the speaker of  
13 the house of representatives, and the standing committees in the  
14 senate and the house of representatives that have jurisdiction over  
15 natural resources.

16 SECTION 61. The Texas Commission on Environmental Quality  
17 shall adopt the standards required by Section 341.039, Health and  
18 Safety Code, as amended by this Act, and Section 26.0311, Water  
19 Code, as amended by this Act, not later than January 1, 2016.

20 SECTION 62. This Act applies only to an application for a  
21 water right or an amendment to a permit, certified filing, or  
22 certificate of adjudication authorizing an interbasin transfer of  
23 water that is accepted for filing on or after the effective date of  
24 this Act. An application for a water right or an amendment to a  
25 permit, certified filing, or certificate of adjudication  
26 authorizing an interbasin transfer of water that is accepted for  
27 filing before the effective date of this Act is governed by the law

1 in effect at the time the application is accepted for filing, and  
2 the former law is continued in effect for that purpose.

3 SECTION 63. The changes in law made by this Act apply only  
4 to an application for a permit or a permit amendment that is  
5 received by a groundwater conservation district on or after the  
6 effective date of this Act. An application for a permit or permit  
7 amendment that is received before the effective date of this Act is  
8 governed by the law in effect on the date the application is  
9 received, and that law is continued in effect for that purpose.

10 SECTION 64. This Act takes effect September 1, 2015.