

## **BILL ANALYSIS**

Senate Research Center  
85R10407 SLB-F

S.B. 1528  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1528 came out of the Texas Water Conservation Association's Groundwater Committee stakeholder process. It received at least a 90 percent approval rating from the committee members, which include more than 80 groundwater users, groundwater owners, groundwater conservation districts (GCDs), and water providers.

S.B. 1528 aims to provide increased stakeholder participation in a groundwater management area's (GMA's) process of developing desired future conditions (DFCs) while retaining the GCD's responsibility to adopt and enforce those DFCs. It also amends the deadlines for proposing and adopting DFCs by GCDs to best align the process with the state water planning process.

S.B. 1528 amends Chapter 36, Water Code, to add permissive authority for GMAs, which currently consist of GCD representatives only, to add voting or nonvoting members to the GMA and requires the chair of each regional water planning group (RWPG) located in a GMA to appoint members to a joint planning advisory committee to develop and make recommendations for consideration by the GMAs, with additional advisory committee members representing other interest groups appointed by the GMAs.

S.B. 1528 also adds a deadline of May 1, 2021, and every five years thereafter for GCDs to propose DFCs for adoption; changes "after the public hearing" to "at the close of the public comment period" because the comment period may extend beyond the date of the public hearing; deletes a reference to the expiration of the public comment period because the amendments make it no longer necessary; requires final adoption of DFCs by January 5, 2022, and every five years thereafter; and clarifies that GCDs finally adopt DFCs after the Texas Water Development Board makes its determination of administrative completeness.

As proposed, S.B. 1528 amends current law relating to the joint planning process for groundwater management.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Reenacts Section 16.053(e), Water Code, as amended by Chapters 756 (H.B. 2031), 990 (H.B. 30), and 1180 (S.B. 1101), Acts of the 84th Legislature, Regular Session, 2015, and amends it, as follows:

(e) Requires each regional water planning group (RWPG) to submit to the Texas Water Development Board (TWDB) a regional water plan that:

(1) and (2) makes no changes to these subdivisions;

(2-a) is consistent with the desired future conditions (DFCs) adopted under Section 36.108 (Joint Planning in Management Area) for the relevant aquifers located in the regional water planning area (planning area) as of the most recent deadline for TWDB to adopt the state water plan under Section 16.051 (State Water Plan: Drought, Conservation, Development, and Management; Effect of Plan) or to take certain other actions, rather than is consistent with the DFCs adopted under Section 36.108 for the relevant aquifers located in the planning area as of the date TWDB most recently adopted a state water plan under Section 16.051 or had taken certain other actions.

(3) and (4) makes no changes to these subdivisions;

(5) includes but is not limited to consideration of the following:

(A) through (I) makes no changes to these paragraphs;

(J) opportunities for and the benefits of developing large-scale desalination facilities for marine seawater that serve local or regional entities and seawater or brackish groundwater that serve certain local or regional brackish groundwater production zones. Makes nonsubstantive changes;

(6) through (9) makes no changes to these subdivisions.

SECTION 2. Amends Section 36.108(a), Water Code, by adding Subdivision (3), to define "management area planning group."

SECTION 3. Amends Section 36.108, Water Code, by adding Subsections (b-1), (b-2), and (f) and amending Subsections (c), (d), (d-1), (d-2), (d-3), and (d-4), as follows:

(b-1) Provides that the management area planning group (MAPG) consists of certain members.

(b-2) Authorizes the groundwater conservation district (district) representatives to add a voting or nonvoting member to the MAPG by a written resolution adopted by a two-thirds vote of the district representatives. Requires the resolution to describe the scope of voting authority for each member added to the MAPG.

(c) Requires the MAPG, rather than the district representatives, to meet at least annually to conduct joint planning, rather than to conduct joint planning with other districts in the management area, and to review the management plans, the accomplishments of the management area, and proposals to adopt new or amend existing DFCs. Requires the MAPG, rather than the districts, in reviewing the management plans, to consider certain matters.

(d) Requires the MAPG, rather than the districts, not later than May 1, 2021, rather than September 1, 2010, and every five years thereafter, to consider groundwater availability models and other data or information for the management area and to propose for adoption DFCs for the relevant aquifers within the management area. Makes a conforming change.

(d-1) Makes a conforming change.

(d-2) Requires that the DFCs proposed under Subsection (d) be approved by a two-thirds vote of the voting members of the MAPG, rather than by a two-thirds vote of all the district representatives, for distribution to the districts in the management area. Requires the district, after the close of the public comment period, rather than after the public hearing, to compile for consideration at the next joint planning meeting a summary of

relevant comments received, any suggested revisions to the proposed DFCs, and the basis for the revisions.

(d-3) Requires the MAPG, rather than the district representatives, after all the districts have submitted their district summaries, rather than after the earlier of the date on which all the districts have submitted their district summaries or the expiration of the public comment period under Subsection (d-2), to reconvene to review the reports, consider any district's suggested revisions to the proposed DFCs, and finally adopt the DFCs for the management area. Requires that the DFCs be approved by a resolution adopted by a two-thirds vote of the voting members of the MAPG, rather than requires that the DFCs be adopted as a resolution by a two-thirds vote of all the district representatives. Requires the MAPG, rather than the district representatives, to produce a DFC explanatory report for the management area. Requires that the report, among certain other requirements, include documentation that certain factors were considered by the MAPG, rather than by the districts, and include a certain discussion.

(d-4) Requires a district, after the district receives notification from TWDB that the DFCs resolution and explanatory report under Subsection (d-3) is administratively complete, to adopt the applicable DFCs in the resolution and report not later than January 5, 2022, and every five years thereafter. Deletes existing text requiring a district, as soon as possible after the district receives the DFCs resolution and explanatory report under Subsection (d-3), to adopt the DFCs in the resolution and report that apply to the district.

(f) Requires the MAPG, at least once during every five-year period for the development and adoption of DFCs and not less than three years or more than four years before the deadline for adoption of the DFCs, to hold a public meeting for the purpose of receiving recommendations for DFCs from the joint planning advisory committee (advisory committee) created under Section 36.1081 (Technical Staff and Subcommittees for Joint Planning). Requires the MAPG to coordinate with the advisory committee to schedule the meeting.

SECTION 4. Amends Section 36.1081, Water Code, as follows:

Sec. 36.1081. New heading: TECHNICAL STAFF AND JOINT PLANNING ADVISORY COMMITTEE. (a) Requires the Texas Natural Resources Conservation Commission and TWDB to, on request, make technical staff available to serve in a nonvoting advisory capacity to assist the MAPG and the advisory committee with the development of DFCs during the planning process under Section 36.108.

(b) Defines "management area planning group" and "regional water planning group."

(c) Creates this subsection from existing text. Requires the MAPG and the presiding officer of each RWPG located wholly or partly in the management, during the joint planning process under Section 36.108, to appoint an advisory committee of persons to represent the interests described by Section 16.053(c) (relating to requiring TWDB to designate a representative within each planning area to serve a certain capacity). Deletes existing text authorizing district representatives to appoint and convene nonvoting advisory subcommittees who represent certain interests to assist in the development of DRCs during the joint planning process under Section 36.108.

(d) Requires the presiding officer of each RWPG located wholly or partly in the management area to provide written notification to the MAPG of whether the officers or the officer's designee will serve on the advisory committee and which interest described by Section 16.053(c) the officer or the officer's designee represents.

(e) Requires the MAPG, after the MAPG receives a notification under Subsection (d) from each RWPG that is located wholly or partly in the management area, to

appoint additional members of the advisory committee in a manner that ensures the greatest representation of the interests described by Section 16.053(c), and to the extent that the MAPG is able to identify qualified people willing to serve on the advisory committee.

(f) Requires the MAPG to provide notice in the manner described by Section 36.108(e) (relating to requiring that a joint meeting be held in certain ways) that describes the purpose of the advisory committee and the process by which a person is authorized to submit nominations to the advisory committee.

(g) Requires TWDB, on request by the MAPG, to provide assistance in soliciting additional members of the advisory committee.

(h) Provides that members of the advisory committee are not required to reside in the management area or a planning area that is located wholly or partly in the management area.

(i) Authorizes the advisory committee to adopt written bylaws to govern the advisory committee's performance of its duties.

(j) Requires that a vacancy on the advisory committee to filled by the RWPG presiding officer or designee or the MAPG that appointed the person whose position is vacant.

(k) Provides that the advisory committee is not subject to the provisions of Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

SECTION 5. Repealer: Section 36.108(d-5) (relating to providing that a proposal for the adoption of DRCs for the relevant aquifers within a management area is not required before May 1, 2016), Water Code.

SECTION 6. Provides that, to the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7. (a) Requires each RWPG described by Section 16.053, Water Code, as reenacted and amended by this Act, not later than the 120th day after the effective date of this Act, to appoint an advisory committee as provided by Section 36.1081, Water Code, as amended by this Act.

(b) Requires the MAPG described by Section 36.108, Water Code, as amended by this Act, for the advisory committee, not later than the 180th day after the date that the final appointment is made under Subsection (a) of this section for an advisory committee, to appoint additional members to the advisory committee as provided by Section 36.1081, Water Code, as amended by this Act.

(c) Requires an advisory committee described by Section 36.1081, Water Code, as amended by this Act, not earlier than July 1, 2019, and not later than November 1, 2019, to make its recommendations to the MAPG that appointed the members of that advisory committee.

(d) Provides that this section expires December 31, 2019.

SECTION 8. Effective date: upon passage or September 1, 2017.