

By: Lucio III

H.B. No. 180

A BILL TO BE ENTITLED

AN ACT

relating to the review of groundwater conservation districts by the state auditor.

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

SECTION 1. Section 35.018(b), Water Code, is amended to read as follows:

(b) The report must include:

(1) the names and locations of all priority groundwater management areas and districts created or attempted to be created on or after November 5, 1985, the effective date of Chapter 133 (H.B. No. 2), Acts of the 69th Legislature, Regular Session, 1985;

(2) the authority under which each priority groundwater management area and district was proposed for creation;

(3) a detailed analysis of each election held to confirm the creation of a district, including analysis of election results, possible reasons for the success or failure to confirm the creation of a district, and the possibility for future voter approval of districts in areas in which attempts to create districts failed;

(4) a detailed analysis of the activities of each district created, including those districts which are implementing management plans certified under Section 36.1072;

(5) a report on ~~audits performed on districts under~~

1 ~~Section 36.302 and~~ remedial actions taken under Section 36.303;

2 (6) recommendations for changes in this chapter and
3 Chapter 36 that will facilitate the creation of priority
4 groundwater management areas and the creation and operation of
5 districts;

6 (7) a report on educational efforts in newly
7 designated priority groundwater management areas; and

8 (8) any other information and recommendations that the
9 commission considers relevant.

10 SECTION 2. Section 36.061(b), Water Code, is amended to
11 read as follows:

12 (b) The state auditor may conduct a financial audit [~~the~~
13 ~~records~~] of any district if the state auditor determines that the
14 audit is necessary.

15 SECTION 3. Section 36.1072(f), Water Code, is amended to
16 read as follows:

17 (f) If the executive administrator does not approve the
18 district's management plan, the executive administrator shall
19 provide to the district, in writing, the reasons for the
20 action. Not later than the 180th day after the date a district
21 receives notice that its management plan has not been approved, the
22 district may submit a revised management plan for review and
23 approval. The executive administrator's decision may be appealed
24 to the development board. If the development board decides not to
25 approve the district's management plan on appeal, the district may
26 request that the conflict be mediated. The district and the board
27 may seek the assistance of the Center for Public Policy Dispute

1 Resolution at The University of Texas School of Law or an
2 alternative dispute resolution system established under Chapter
3 152, Civil Practice and Remedies Code, in obtaining a qualified
4 impartial third party to mediate the conflict. The cost of the
5 mediation services must be specified in the agreement between the
6 parties and the Center for Public Policy Dispute Resolution or the
7 alternative dispute resolution system. If the parties do not
8 resolve the conflict through mediation, the decision of the
9 development board not to approve the district's management plan may
10 be appealed to a district court in Travis County. Costs for the
11 appeal shall be set by the court hearing the appeal. An appeal
12 under this subsection is by trial de novo. The commission shall
13 not take enforcement action against a district under Subchapter I
14 until the latest of the expiration of the 180-day period, the date
15 the development board has taken final action withholding approval
16 of a revised management plan, the date the mediation is completed,
17 or the date a final judgment upholding the board's decision is
18 entered by a district court. An enforcement action may not be
19 taken against a district by the commission [~~or the state auditor~~]
20 under Subchapter I because the district's management plan and the
21 approved regional water plan are in conflict while the parties are
22 attempting to resolve the conflict before the development board, in
23 mediation, or in court. Rules of the district continue in full
24 force and effect until all appeals under this subsection have been
25 exhausted and the final judgment is adverse to the district.

26 SECTION 4. Section 36.303(a), Water Code, is amended to
27 read as follows:

1 (a) If Section 36.301 or [7] 36.3011[~~7~~ ~~or~~ ~~36.302(f)~~]
2 applies, the commission, after notice and hearing in accordance
3 with Chapter 2001, Government Code, shall take action the
4 commission considers appropriate, including:

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

7 (2) dissolving the board in accordance with Sections
8 36.305 and 36.307 and calling an election for the purpose of
9 electing a new board;

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

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

15 SECTION 5. Section 36.302, Water Code, is repealed.

16 SECTION 6. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.