

By: Price

H.B. No. 2215

Substitute the following for H.B. No. 2215:

By: Larson

C.S.H.B. No. 2215

A BILL TO BE ENTITLED

AN ACT

relating to the deadline for adoption of desired future conditions  
in groundwater conservation districts.

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

SECTION 1. 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, is reenacted and  
amended to read as follows:

(e) Each regional water planning group shall submit to the  
development board a regional water plan that:

(1) is consistent with the guidance principles for the  
state water plan adopted by the development board under Section  
16.051(d);

(2) provides information based on data provided or  
approved by the development board in a format consistent with the  
guidelines provided by the development board under Subsection (d);

(2-a) is consistent with the desired future conditions  
adopted under Section 36.108 for the relevant aquifers located in  
the regional water planning area as of the most recent deadline for  
[date] the board to adopt the ~~[most recently adopted a]~~ state water  
plan under Section 16.051 or, at the option of the regional water  
planning group, established subsequent to the adoption of the most  
recent plan; provided, however, that if no groundwater conservation  
district exists within the area of the regional water planning

1 group, the regional water planning group shall determine the supply  
2 of groundwater for regional planning purposes; the Texas Water  
3 Development Board shall review and approve, prior to inclusion in  
4 the regional water plan, that the groundwater supply for the  
5 regional planning group without a groundwater conservation  
6 district in its area is physically compatible, using the board's  
7 groundwater availability models, with the desired future  
8 conditions adopted under Section 36.108 for the relevant aquifers  
9 in the groundwater management area that are regulated by  
10 groundwater conservation districts;

11 (3) identifies:

12 (A) each source of water supply in the regional  
13 water planning area, including information supplied by the  
14 executive administrator on the amount of modeled available  
15 groundwater in accordance with the guidelines provided by the  
16 development board under Subsections (d) and (f);

17 (B) factors specific to each source of water  
18 supply to be considered in determining whether to initiate a  
19 drought response;

20 (C) actions to be taken as part of the response;  
21 and

22 (D) existing major water infrastructure  
23 facilities that may be used for interconnections in the event of an  
24 emergency shortage of water;

25 (4) has specific provisions for water management  
26 strategies to be used during a drought of record;

27 (5) includes but is not limited to consideration of

the following:

(A) any existing water or drought planning efforts addressing all or a portion of the region and potential impacts on public health, safety, or welfare in this state;

(B) approved groundwater conservation district management plans and other plans submitted under Section 16.054;

(C) all potentially feasible water management strategies, including but not limited to improved conservation, reuse, and management of existing water supplies, conjunctive use, acquisition of available existing water supplies, and development of new water supplies;

(D) protection of existing water rights in the region;

(E) opportunities for and the benefits of developing regional water supply facilities or providing regional management of water supply facilities;

(F) appropriate provision for environmental water needs and for the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico and the effect of plans on navigation;

(G) provisions in Section 11.085(k)(1) if interbasin transfers are contemplated;

(H) voluntary transfer of water within the region using, but not limited to, regional water banks, sales, leases, options, subordination agreements, and financing agreements;

(I) emergency transfer of water under Section 11.139, including information on the part of each permit, certified

filing, or certificate of adjudication for nonmunicipal use in the region that may be transferred without causing unreasonable damage to the property of the nonmunicipal water rights holder; and

(J) opportunities for and the benefits of developing large-scale desalination facilities for:

(i) marine seawater that serve local or regional entities; and

(ii) ~~[(J) opportunities for and the benefits of developing large-scale desalination facilities for]~~ seawater or brackish groundwater that serve local or regional brackish groundwater production zones identified and designated under Section 16.060(b)(5);

(6) identifies river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs that the regional water planning group recommends for protection under Section 16.051;

(7) assesses the impact of the plan on unique river and stream segments identified in Subdivision (6) if the regional water planning group or the legislature determines that a site of unique ecological value exists;

(8) describes the impact of proposed water projects on water quality; and

(9) includes information on:

(A) projected water use and conservation in the regional water planning area; and

(B) the implementation of state and regional water plan projects, including water conservation strategies,

1 necessary to meet the state's projected water demands.

2 SECTION 2. Sections 36.108(d), (d-2), (d-3), and (d-4),  
3 Water Code, are amended to read as follows:

4 (d) Not later than May 1, 2021 [~~September 1, 2010~~], and  
5 every five years thereafter, the districts shall consider  
6 groundwater availability models and other data or information for  
7 the management area and shall propose for adoption desired future  
8 conditions for the relevant aquifers within the management area.  
9 Before voting on the proposed desired future conditions of the  
10 aquifers under Subsection (d-2), the districts shall consider:

11 (1) aquifer uses or conditions within the management  
12 area, including conditions that differ substantially from one  
13 geographic area to another;

14 (2) the water supply needs and water management  
15 strategies included in the state water plan;

16 (3) hydrological conditions, including for each  
17 aquifer in the management area the total estimated recoverable  
18 storage as provided by the executive administrator, and the average  
19 annual recharge, inflows, and discharge;

20 (4) other environmental impacts, including impacts on  
21 spring flow and other interactions between groundwater and surface  
22 water;

23 (5) the impact on subsidence;

24 (6) socioeconomic impacts reasonably expected to  
25 occur;

26 (7) the impact on the interests and rights in private  
27 property, including ownership and the rights of management area

landowners and their lessees and assigns in groundwater as recognized under Section 36.002;

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

(9) any other information relevant to the specific desired future conditions.

(d-2) The desired future conditions proposed under Subsection (d) must provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the management area. This subsection does not prohibit the establishment of desired future conditions that provide for the reasonable long-term management of groundwater resources consistent with the management goals under Section 36.1071(a). The desired future conditions proposed under Subsection (d) must be approved by a two-thirds vote of all the district representatives for distribution to the districts in the management area. A period of not less than 90 days for public comments begins on the day the proposed desired future conditions are mailed to the districts. During the public comment period and after posting notice as required by Section 36.063, each district shall hold a public hearing on any proposed desired future conditions relevant to that district. During the public comment period, the district shall make available in its office a copy of the proposed desired future conditions and any supporting materials, such as the documentation of factors considered under Subsection (d) and groundwater availability model run results.

1 After the close of the public comment period ~~[hearing]~~, the  
2 district shall compile for consideration at the next joint planning  
3 meeting a summary of relevant comments received, any suggested  
4 revisions to the proposed desired future conditions, and the basis  
5 for the revisions.

6 (d-3) After ~~[the earlier of the date on which]~~ all the  
7 districts have submitted their district summaries ~~[or the~~  
8 ~~expiration of the public comment period under Subsection (d-2)]~~,  
9 the district representatives shall reconvene to review the reports,  
10 consider any district's suggested revisions to the proposed desired  
11 future conditions, and finally adopt the desired future conditions  
12 for the management area. The desired future conditions must be  
13 approved by ~~[adopted as]~~ a resolution adopted by a two-thirds vote  
14 of all the district representatives not later than January 5, 2022.  
15 Subsequent desired future conditions must be proposed and finally  
16 adopted by the district representatives before the end of each  
17 successive five-year period after that date. The district  
18 representatives shall produce a desired future conditions  
19 explanatory report for the management area and submit to the  
20 development board and each district in the management area proof  
21 that notice was posted for the joint planning meeting, a copy of the  
22 resolution, and a copy of the explanatory report. The report must:

- 23 (1) identify each desired future condition;
- 24 (2) provide the policy and technical justifications  
25 for each desired future condition;
- 26 (3) include documentation that the factors under  
27 Subsection (d) were considered by the districts and a discussion of

1 how the adopted desired future conditions impact each factor;

2 (4) list other desired future condition options  
3 considered, if any, and the reasons why those options were not  
4 adopted; and

5 (5) discuss reasons why recommendations made by  
6 advisory committees and relevant public comments received by the  
7 districts were or were not incorporated into the desired future  
8 conditions.

9 (d-4) After ~~[As soon as possible after]~~ a district receives  
10 notification from the Texas Water Development Board that the  
11 desired future conditions resolution and explanatory report under  
12 Subsection (d-3) are administratively complete, the district shall  
13 adopt the applicable desired future conditions in the resolution  
14 and report ~~[that apply to the district]~~.

15 SECTION 3. Section 36.108(d-5), Water Code, is repealed.

16 SECTION 4. To the extent of any conflict, this Act prevails  
17 over another Act of the 85th Legislature, Regular Session, 2017,  
18 relating to nonsubstantive additions to and corrections in enacted  
19 codes.

20 SECTION 5. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2017.