

By: Miles

S.B. No. 1312

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

1 the following:

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

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

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

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

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

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

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

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

26 (I) emergency transfer of water under Section  
27 11.139, including information on the part of each permit, certified

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

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

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

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

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

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

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

23 (9) includes information on:

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

26 (B) the implementation of state and regional  
27 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

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

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

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

7 (d-2) The desired future conditions proposed under  
8 Subsection (d) must provide a balance between the highest  
9 practicable level of groundwater production and the conservation,  
10 preservation, protection, recharging, and prevention of waste of  
11 groundwater and control of subsidence in the management area. This  
12 subsection does not prohibit the establishment of desired future  
13 conditions that provide for the reasonable long-term management of  
14 groundwater resources consistent with the management goals under  
15 Section 36.1071(a). The desired future conditions proposed under  
16 Subsection (d) must be approved by a two-thirds vote of all the  
17 district representatives for distribution to the districts in the  
18 management area. A period of not less than 90 days for public  
19 comments begins on the day the proposed desired future conditions  
20 are mailed to the districts. During the public comment period and  
21 after posting notice as required by Section 36.063, each district  
22 shall hold a public hearing on any proposed desired future  
23 conditions relevant to that district. During the public comment  
24 period, the district shall make available in its office a copy of  
25 the proposed desired future conditions and any supporting  
26 materials, such as the documentation of factors considered under  
27 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. The district representatives  
15 shall produce a desired future conditions explanatory report for  
16 the management area and submit to the development board and each  
17 district in the management area proof that notice was posted for the  
18 joint planning meeting, a copy of the resolution, and a copy of the  
19 explanatory report. The report must:

- 20 (1) identify each desired future condition;
- 21 (2) provide the policy and technical justifications  
22 for each desired future condition;
- 23 (3) include documentation that the factors under  
24 Subsection (d) were considered by the districts and a discussion of  
25 how the adopted desired future conditions impact each factor;
- 26 (4) list other desired future condition options  
27 considered, if any, and the reasons why those options were not

1 adopted; and

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

6 (d-4) After ~~[As soon as possible after]~~ a district receives  
7 notification from the Texas Water Development Board that the  
8 desired future conditions resolution and explanatory report under  
9 Subsection (d-3) are administratively complete, the district shall  
10 adopt the applicable desired future conditions in the resolution  
11 and report not later than January 5, 2022, and every five years  
12 thereafter ~~[that apply to the district]~~.

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

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

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