86R11974 SLB-F

By:  Wilson H.B. No. 3998

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of the administration of surface water rights permitting from the Texas Commission on Environmental Quality to the Texas Water Development Board and the regulation of groundwater; authorizing fees; authorizing civil penalties.

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

SECTION 1.  Section 111.002, Natural Resources Code, is amended to read as follows:

Sec. 111.002.  COMMON CARRIERS UNDER CHAPTER. A person is a common carrier subject to the provisions of this chapter if it:

(1)  owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum or nonpotable water to or for the public for hire, or engages in the business of transporting crude petroleum or nonpotable water to another person by pipeline;

(2)  owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire and the pipeline is constructed or maintained on, over, or under a public road or highway, or is an entity in favor of whom the right of eminent domain exists;

(3)  owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire which is or may be constructed, operated, or maintained across, on, along, over, or under the right-of-way of a railroad, corporation, or other common carrier required by law to transport crude petroleum as a common carrier;

(4)  under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind, owns, operates, manages, or participates in ownership, operation, or management of a pipeline or part of a pipeline in the State of Texas for the transportation of crude petroleum, bought of others, from an oil field or place of production within this state to any distributing, refining, or marketing center or reshipping point within this state;

(5)  owns, operates, or manages, wholly or partially, pipelines for the transportation for hire of coal in whatever form or of any mixture of substances including coal in whatever form;

(6)  owns, operates, or manages, wholly or partially, pipelines for the transportation of carbon dioxide or hydrogen in whatever form to or for the public for hire, but only if such person files with the commission a written acceptance of the provisions of this chapter expressly agreeing that, in consideration of the rights acquired, it becomes a common carrier subject to the duties and obligations conferred or imposed by this chapter; or

(7)  owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of feedstock for carbon gasification, the products of carbon gasification, or the derivative products of carbon gasification, in whatever form, to or for the public for hire, but only if the person files with the commission a written acceptance of the provisions of this chapter expressly agreeing that, in consideration of the rights acquired, it becomes a common carrier subject to the duties and obligations conferred or imposed by this chapter.

SECTION 2.  Section 5.012, Water Code, is amended to read as follows:

Sec. 5.012.  DECLARATION OF POLICY. (a) The commission is the agency of the state given primary responsibility for implementing the constitution and laws of this state relating to the conservation of natural resources and the protection of the environment.

(b)  The board is the agency of the state given primary responsibility for implementing the constitution and laws of this state relating to the conservation of water resources.

SECTION 3.  Section 5.013(a), Water Code, is amended to read as follows:

(a)  The commission has general jurisdiction over:

(1)  [~~water and water rights including the issuance of water rights permits, water rights adjudication, cancellation of water rights, and enforcement of water rights;~~

[~~(2)~~]  continuing supervision over districts created under Article III, Sections 52(b)(1) and (2), and Article XVI, Section 59, of the Texas Constitution;

(2) [~~(3)~~]  the state's water quality program including issuance of permits, enforcement of water quality rules, standards, orders, and permits, and water quality planning;

(3) [~~(4)~~]  the determination of the feasibility of certain federal projects;

(4) [~~(5)~~]  the adoption and enforcement of rules and performance of other acts relating to the safe construction, maintenance, and removal of dams;

(5) [~~(6)~~]  conduct of the state's hazardous spill prevention and control program;

(6) [~~(7)~~]  the administration of the state's program relating to inactive hazardous substance, pollutant, and contaminant disposal facilities;

(7) [~~(8)~~]  the administration of a portion of the state's injection well program;

(8) [~~(9)~~]  the administration of the state's programs involving underground water and water wells and drilled and mined shafts;

(9) [~~(10)~~]  the state's responsibilities relating to regional waste disposal;

(10) [~~(11)~~]  the responsibilities assigned to the commission by Chapters 361, 363, 382, 401, 505, 506, and 507, Health and Safety Code; and

(11) [~~(12)~~]  any other areas assigned to the commission by this code and other laws of this state.

SECTION 4.  Section 5.501(b), Water Code, is amended to read as follows:

(b)  The commission may issue an emergency order under this subchapter after providing the notice and opportunity for hearing that the commission considers practicable under the circumstances or without notice or hearing. Notice [~~Except as provided by Section 5.506, notice~~] must be given not later than the 10th day before the date set for a hearing if the commission requires notice and hearing before issuing the order. The commission shall give notice not later than the 20th day before the date set for a hearing on a temporary order.

SECTION 5.  Section 5.701(q), Water Code, is amended to read as follows:

(q)  Notwithstanding any other law, fees collected for deposit to the water resource management account under the following statutes may be appropriated and used to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under:

(1)  Subsection [~~Subsections~~] (b) [~~and (c)~~], to the extent those fees are collected in connection with [~~water use or~~] water quality permits;

(2)  [~~Subsections (h)-(l);~~

[~~(3)  Section 11.138(g);~~

[~~(4)  Section 11.145;~~

[~~(5)~~]  Section 26.0135(h);

(3) [~~(6)~~]  Sections 26.0291, 26.044, and 26.0461; or

(4) [~~(7)~~]  Sections 341.041, 366.058, 366.059, 371.024, 371.026, and 371.062, Health and Safety Code.

SECTION 6.  Section 6.012(a), Water Code, is amended to read as follows:

(a)  The board has general jurisdiction over:

(1)  the development and implementation of a statewide water plan;

(2)  the administration of the state's various water assistance and financing programs including those created by the constitution;

(3)  the administration of the National Flood Insurance Program; [~~and~~]

(4)  water and water rights, including the issuance of water rights permits, water rights adjudication, cancellation of water rights, and enforcement of water rights; and

(5)  other areas specifically assigned to the board by this code or other law.

SECTION 7.  Section 7.051(b), Water Code, is amended to read as follows:

(b)  This subchapter does not apply to violations of Chapter [~~11,~~] 12, 13, 16, or 36 of this code, or Chapter 341, Health and Safety Code.

SECTION 8.  Section 7.102, Water Code, is amended to read as follows:

Sec. 7.102.  MAXIMUM PENALTY. A person who causes, suffers, allows, or permits a violation of a statute, rule, order, or permit relating to Chapter 37 of this code, Chapter 366, 371, or 372, Health and Safety Code, Subchapter G, Chapter 382, Health and Safety Code, or Chapter 1903, Occupations Code, shall be assessed for each violation a civil penalty not less than $50 nor greater than $5,000 for each day of each violation as the court or jury considers proper. A person who causes, suffers, allows, or permits a violation of a statute, rule, order, or permit relating to any other matter within the commission's jurisdiction to enforce, other than violations of Chapter [~~11,~~] 12, 13, 16, or 36 of this code, or Chapter 341, Health and Safety Code, shall be assessed for each violation a civil penalty not less than $50 nor greater than $25,000 for each day of each violation as the court or jury considers proper. Each day of a continuing violation is a separate violation.

SECTION 9.  Section 11.002, Water Code, is amended by adding Subdivision (2-a) and amending Subdivisions (6), (17), and (20) to read as follows:

(2-a)  "Executive administrator" means the executive administrator of the Texas Water Development Board.

(6)  "Appropriator" means a person who has made beneficial use of any water in a lawful manner under the provisions of any act of the legislature before the enactment of Chapter 171, General Laws, Acts of the 33rd Legislature, 1913, as amended, and who has filed with the State Board of Water Engineers a record of the [~~his~~] appropriation as required by the 1913 Act, as amended, or a person who makes or has made beneficial use of any water within the limitations of a permit lawfully issued by the board [~~commission~~] or one of its predecessors.

(17)  "Environmental flow standards" means those requirements adopted by the board [~~commission~~] under Section 11.1471.

(20)  "Best management practices" means those voluntary efficiency measures developed by the [~~commission and the~~] board that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specified time frame.

SECTION 10.  Section 11.004, Water Code, is amended to read as follows:

Sec. 11.004.  BOARD [~~COMMISSION~~] TO RECEIVE CERTIFIED COPIES OF JUDGMENTS, ETC. When any court of record renders a judgment, decree, or order affecting the title to any water right, claim, appropriation, or irrigation facility or affecting any matter over which the board [~~commission~~] is given supervision by law, the clerk of the court shall immediately transmit to the board [~~commission~~] a certified copy of the judgment, decree, or order.

SECTION 11.  Sections 11.023(a) and (e), Water Code, are amended to read as follows:

(a)  To the extent that state water has not been set aside by the board [~~commission~~] under Section 11.1471(a)(2) to meet downstream instream flow needs or freshwater inflow needs, state water may be appropriated, stored, or diverted for:

(1)  domestic and municipal uses, including water for sustaining human life and the life of domestic animals;

(2)  agricultural uses and industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

(3)  mining and recovery of minerals;

(4)  hydroelectric power;

(5)  navigation;

(6)  recreation and pleasure;

(7)  public parks; and

(8)  game preserves.

(e)  The amount of water appropriated for each purpose mentioned in this section shall be specifically appropriated for that purpose, subject to the preferences prescribed in Section 11.024 [~~of this code~~]. The board [~~commission~~] may authorize appropriation of a single amount or volume of water for more than one purpose of use. In the event that a single amount or volume of water is appropriated for more than one purpose of use, the total amount of water actually diverted for all of the authorized purposes may not exceed the total amount of water appropriated.

SECTION 12.  Sections 11.0235(c) and (d-3), Water Code, are amended to read as follows:

(c)  The legislature has expressly required the board [~~commission~~] while balancing all other public interests to consider and, to the extent practicable, provide for the freshwater inflows and instream flows necessary to maintain the viability of the state's streams, rivers, and bay and estuary systems in the board's [~~commission's~~] regular granting of permits for the use of state waters.  As an essential part of the state's environmental flows policy, all permit conditions relating to freshwater inflows to affected bays and estuaries and instream flow needs must be subject to temporary suspension if necessary for water to be applied to essential beneficial uses during emergencies.

(d-3)  The legislature finds that:

(1)  in those basins in which water is available for appropriation, the board [~~commission~~] should establish an environmental set-aside below which water should not be available for appropriation; and

(2)  in those basins in which the unappropriated water that will be set aside for instream flow and freshwater inflow protection is not sufficient to fully satisfy the environmental flow standards established by the board [~~commission~~], a variety of market approaches, both public and private, for filling the gap must be explored and pursued.

SECTION 13.  Sections 11.0236(h) and (m), Water Code, are amended to read as follows:

(h)  The board [~~commission~~] shall provide staff support for the advisory group.

(m)  The advisory group is abolished on the date that the board [~~commission~~] has adopted environmental flow standards under Section 11.1471 for all of the river basin and bay systems in this state.

SECTION 14.  Sections 11.02361(e) and (f), Water Code, are amended to read as follows:

(e)  The science advisory committee shall:

(1)  serve as an objective scientific body to advise and make recommendations to the advisory group on issues relating to the science of environmental flow protection; and

(2)  develop recommendations to help provide overall direction, coordination, and consistency relating to:

(A)  environmental flow methodologies for bay and estuary studies and instream flow studies;

(B)  environmental flow programs at the board and [~~commission,~~] the Parks and Wildlife Department[~~, and the board~~]; and

(C)  the work of the basin and bay expert science teams described in Section 11.02362.

(f)  To assist the advisory group to assess the extent to which the recommendations of the science advisory committee are considered and implemented, the board and [~~commission,~~] the Parks and Wildlife Department[~~, and the board~~] shall provide written reports to the advisory group, at intervals determined by the advisory group, that describe:

(1)  the actions taken by each agency in response to each recommendation; and

(2)  for each recommendation not implemented, the reason it was not implemented.

SECTION 15.  Section 11.0237, Water Code, is amended to read as follows:

Sec. 11.0237.  WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The board [~~commission~~] may not issue a new permit for instream flows dedicated to environmental needs or bay and estuary inflows. The board [~~commission~~] may approve an application to amend an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows.

(b)  This section does not alter the board's [~~commission's~~] obligations under Section 11.042(a-1), (b), or (c), 11.046(b), 11.085(k)(1) [~~11.085(k)(2)(F)~~], 11.134(b)(3)(D), 11.147, 11.1471, 11.1491, 11.150, 11.152, 16.058, 16.059, or 18.004.

SECTION 16.  Section 11.026, Water Code, is amended to read as follows:

Sec. 11.026.  PERFECTION OF AN APPROPRIATION. No right to appropriate water is perfected unless the water has been beneficially used for a purpose stated in the original declaration of intention to appropriate water or stated in a permit issued by the board [~~commission~~] or one of its predecessors.

SECTION 17.  Sections 11.031(a), (b), (c), (d), (e), and (g), Water Code, are amended to read as follows:

(a)  Not later than March 1 of each year, each person who has a water right issued by the board [~~commission~~] or who impounded, diverted, or otherwise used state water during the preceding calendar year shall submit a written report to the board [~~commission~~] on a form prescribed by the board [~~commission~~]. The report shall contain all information required by the board [~~commission~~] to aid in administering the water law and in making inventory of the state's water resources. However, with the exception of those persons who hold water rights, no report is required of persons who take water solely for domestic or livestock purposes.

(b)  A person who fails to file an annual report with the board [~~commission~~] as required by Subsection (a) or fails to timely comply with a request by the board [~~commission~~] to make information available under Subsection (d) is liable for a penalty for each day the person fails to file the statement or comply with the request after the applicable deadline in an amount not to exceed:

(1)  $100 per day if the person is the holder of a water right authorizing the appropriation of 5,000 acre-feet or less per year; or

(2)  $500 per day if the person is the holder of a water right authorizing the appropriation of more than 5,000 acre-feet per year.

(c)  The board [~~commission~~] may waive the requirements of Subsection (a) [~~of this section~~] for a person who has a water right or uses state water in an area of the state where watermaster operations are established.

(d)  Each person who has a water right issued by the board [~~commission~~] or who impounds, diverts, or otherwise uses state water shall maintain water use information required under Subsection (a) on a monthly basis during the months a water rights holder uses permitted water. The person shall make the information available to the board [~~commission~~] on the board's [~~commission's~~] request. The executive administrator [~~director~~] shall establish a reasonable deadline by which a person must make available information requested by the board [~~commission~~] under this subsection.

(e)  Except as provided by Subsection (a), the board [~~commission~~] may request information maintained under Subsection (d) only during a drought or other emergency shortage of water or in response to a complaint.

(g)  The board [~~commission~~] shall establish a process by which a report required under Subsection (a) may be submitted electronically through the Internet.

SECTION 18.  Section 11.034, Water Code, is amended to read as follows:

Sec. 11.034.  RESERVOIR SITE: LAND AND RIGHTS-OF-WAY. An appropriator who is authorized to construct a dam or reservoir is granted the right-of-way, not to exceed 100 feet wide, and the necessary area for the site, over any public school land, university land, or asylum land of this state and the use of the rock, gravel, and timber on the site and right-of-way for construction purposes, after paying compensation as determined by the board [~~commission~~]. An appropriator may acquire the reservoir site and rights-of-way over private land by contract.

SECTION 19.  Sections 11.035(c), (d), (e), (f), and (g), Water Code, are amended to read as follows:

(c)  If the party exercising the power granted by this section is not a corporation, district, city, or town, the party [~~he~~] shall apply to the board [~~commission~~] for the condemnation.

(d)  The executive administrator [~~director~~] shall have the proposed condemnation investigated. After the investigation, the board [~~commission~~] may give notice to the party owning the land proposed to be condemned and hold a hearing on the proposed condemnation.

(e)  If after a hearing the board [~~commission~~] determines that the condemnation is necessary, the executive administrator [~~director~~] may institute condemnation proceedings in the name of the State of Texas for the use and benefit of the party who applied for the condemnation and all others similarly situated.

(f)  The parties at whose instance a condemnation suit is instituted shall pay the costs of the suit and condemnation in proportion to the benefits received by each party as fixed by the board [~~commission~~]. Before using any of the condemned rights or property, a party receiving the rights or property shall pay the amount of costs fixed by the board [~~commission~~].

(g)  If, after the costs of the condemnation proceedings have been paid, a party seeks to take the benefits of the condemnation proceedings, the party [~~he~~] shall apply to the board [~~commission~~] for the benefits. The board [~~commission~~] may grant the application and fix the fees and charges to be paid by the applicant.

SECTION 20.  Section 11.036(d), Water Code, is amended to read as follows:

(d)  If any person uses the stored or conserved water without first entering into a contract with the party that conserved or stored it, the user shall pay for the use at a rate determined by the board [~~commission~~] to be just and reasonable, subject to court review as in other cases.

SECTION 21.  Section 11.041, Water Code, is amended to read as follows:

Sec. 11.041.  DENIAL OF WATER: COMPLAINT. (a) Any person entitled to receive or use water from any canal, ditch, flume, lateral, dam, reservoir, or lake or from any conserved or stored supply may present to the board [~~commission~~] a written petition showing:

(1)  that the person [~~he~~] is entitled to receive or use the water;

(2)  that the person [~~he~~] is willing and able to pay a just and reasonable price for the water;

(3)  that the party owning or controlling the water supply has water not contracted to others and available for the petitioner's use; and

(4)  that the party owning or controlling the water supply fails or refuses to supply the available water to the petitioner, or that the price or rental demanded for the available water is not reasonable and just or is discriminatory.

(b)  If the petition is accompanied by a deposit of $25, the executive administrator [~~director~~] shall have a preliminary investigation of the complaint made and determine whether or not there are probable grounds for the complaint.

(c)  If, after preliminary investigation, the executive administrator [~~director~~] determines that probable grounds exist for the complaint, the board [~~commission~~] shall enter an order setting a time and place for a hearing on the petition.

(d)  The board [~~commission~~] may require the complainant to make an additional deposit or execute a bond satisfactory to the board [~~commission~~] in an amount fixed by the board [~~commission~~] conditioned on the payment of all costs of the proceeding.

(e)  At least 20 days before the date set for the hearing, the board [~~commission~~] shall transmit by registered mail a certified copy of the petition and a certified copy of the hearing order to the person against whom the complaint is made.

(f)  The board [~~commission~~] shall hold a hearing on the complaint at the time and place stated in the order. It may hear evidence orally or by affidavit in support of or against the complaint, and it may hear arguments. The utility commission may participate in the hearing if necessary to present evidence on the price or rental demanded for the available water. On completion of the hearing, the board [~~commission~~] shall render a written decision.

(g)  If, after the preliminary investigation, the executive administrator [~~director~~] determines that no probable grounds exist for the complaint, the executive administrator [~~director~~] shall dismiss the complaint. The board [~~commission~~] may either return the deposit or pay it into the State Treasury.

SECTION 22.  Section 11.042, Water Code, is amended by amending Subsections (a), (a-1), (b), and (c) and adding Subsection (e) to read as follows:

(a)  Under rules prescribed by the board [~~commission~~], a person, association of persons, corporation, water control and improvement district, water improvement district, or irrigation district supplying stored or conserved water under contract as provided in this chapter may use the bank and bed of any flowing natural stream in the state to convey the water from the place of storage to the place of use or to the diversion point of the appropriator.

(a-1)  With prior authorization granted under rules prescribed by the board [~~commission~~], a person, association of persons, corporation, water control and improvement district, water improvement district, or irrigation district supplying water imported from a source located wholly outside the boundaries of this state, except water imported from a source located in the United Mexican States, may use the bed and banks of any flowing natural stream in the state to convey water for use in this state. The authorization must:

(1)  allow for the diversion of only the amount of water put into a watercourse or stream, less carriage losses; and

(2)  include special conditions adequate to prevent a significant impact to the quality of water in this state.

(b)  A person who wishes to discharge and then subsequently divert and reuse the person's existing return flows derived from privately owned groundwater must obtain prior authorization from the board [~~commission~~] for the diversion and the reuse of these return flows. The authorization may allow for the diversion and reuse by the discharger of existing return flows, less carriage losses, and shall be subject to special conditions if necessary to protect an existing water right that was granted based on the use or availability of these return flows. Special conditions may also be provided to help maintain instream uses and freshwater inflows to bays and estuaries. A person wishing to divert and reuse future increases of return flows derived from privately owned groundwater must obtain authorization to reuse increases in return flows before the increase.

(c)  Except as otherwise provided in Subsection (a) [~~of this section~~], a person who wishes to convey and subsequently divert water in a watercourse or stream must obtain the prior approval of the board [~~commission~~] through a bed and banks authorization. The authorization shall allow to be diverted only the amount of water put into a watercourse or stream, less carriage losses and subject to any special conditions that may address the impact of the discharge, conveyance, and diversion on existing permits, certified filings, or certificates of adjudication, instream uses, and freshwater inflows to bays and estuaries. Water discharged into a watercourse or stream under this chapter shall not cause a degradation of water quality to the extent that the stream segment's classification would be lowered. [~~Authorizations under this section and water quality authorizations may be approved in a consolidated permit proceeding.~~]

(e)  The board may consult with the commission in determining special conditions for an authorization issued under this section.

SECTION 23.  Section 11.046(b), Water Code, is amended to read as follows:

(b)  In granting an application for a water right, the board [~~commission~~] may include conditions in the water right providing for the return of surplus water, in a specific amount or percentage of water diverted, and the return point on a watercourse or stream as necessary to protect senior downstream permits, certified filings, or certificates of adjudication or to provide flows for instream uses or bays and estuaries.

SECTION 24.  Section 11.053, Water Code, is amended to read as follows:

Sec. 11.053.  EMERGENCY ORDER CONCERNING WATER RIGHTS. (a) During a period of drought or other emergency shortage of water, as defined by board [~~commission~~] rule, the executive administrator [~~director~~] by order may, in accordance with the priority of water rights established by Section 11.027:

(1)  temporarily suspend the right of any person who holds a water right to use the water; and

(2)  temporarily adjust the diversions of water by water rights holders.

(b)  The executive administrator [~~director~~] in ordering a suspension or adjustment under this section shall ensure that an action taken:

(1)  maximizes the beneficial use of water;

(2)  minimizes the impact on water rights holders;

(3)  prevents the waste of water;

(4)  takes into consideration the efforts of the affected water rights holders to develop and implement the water conservation plans and drought contingency plans required by this chapter;

(5)  to the greatest extent practicable, conforms to the order of preferences established by Section 11.024; and

(6)  does not require the release of water that, at the time the order is issued, is lawfully stored in a reservoir under water rights associated with that reservoir.

(c)  The board [~~commission~~] shall adopt rules to implement this section, including rules:

(1)  defining a drought or other emergency shortage of water for purposes of this section; and

(2)  specifying the:

(A)  conditions under which the executive administrator [~~director~~] may issue an order under this section;

(B)  terms of an order issued under this section, including the maximum duration of a temporary suspension or adjustment under this section; and

(C)  procedures for notice of, an opportunity for a hearing on, and the appeal to the board [~~commission~~] of an order issued under this section.

SECTION 25.  Section 11.084, Water Code, is amended to read as follows:

Sec. 11.084.  SALE OF PERMANENT WATER RIGHT WITHOUT A PERMIT. No person may sell or offer to sell a permanent water right unless the person [~~he~~] has perfected a right to appropriate state water by a certified filing, or unless the person [~~he~~] has obtained a permit from the board [~~commission~~], authorizing the use of the water for the purposes for which the permanent water right is conveyed.

SECTION 26.  Section 11.0841(c), Water Code, is amended to read as follows:

(c)  For purposes of this section, the Parks and Wildlife Department has:

(1)  the rights of a holder of a water right that is held in the Texas Water Trust, including the right to file suit in a civil court to prevent the unlawful use of such a right;

(2)  the right to act in the same manner that a holder of a water right may act to protect the holder's rights in seeking to prevent any person from appropriating water in violation of a set-aside established by the board [~~commission~~] under Section 11.1471 to meet instream flow needs or freshwater inflow needs; and

(3)  the right to file suit in a civil court to prevent the unlawful use of a set-aside established under Section 11.1471.

SECTION 27.  Sections 11.0842(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), and (p), Water Code, are amended to read as follows:

(a)  If a person violates this chapter, a rule or order adopted under this chapter [~~or Section 16.236~~], or a permit, certified filing, or certificate of adjudication issued under this chapter, the board [~~commission~~] may assess an administrative penalty against that person as provided by this section.  The board [~~commission~~] may assess an administrative penalty for a violation relating to a water division or a river basin or segment of a river basin regardless of whether a watermaster has been appointed for the water division or river basin or segment of the river basin.

(b)  The penalty may be in an amount not to exceed $5,000 for each day the person is in violation of this chapter, the rule or order adopted under this chapter, or the permit, certified filing, or certificate of adjudication issued under this chapter. [~~The penalty may be in an amount not to exceed $1,000 for each day the person is in violation of the rule or order adopted under Section 16.236 of this code.~~] Each day a violation continues may be considered a separate violation for purposes of penalty assessment.

(c)  In determining the amount of the penalty, the board [~~commission~~] shall consider:

(1)  the nature, circumstances, extent, duration, and gravity of the prohibited acts, with special emphasis on the impairment of an existing permit, certified filing, or certificate of adjudication or the hazard or potential hazard created to the health, safety, or welfare of the public;

(2)  the impact of the violation on the instream uses, water quality, fish and wildlife habitat, or beneficial freshwater inflows to bays and estuaries;

(3)  with respect to the alleged violator:

(A)  the history and extent of previous violations;

(B)  the degree of culpability, including whether the violation was attributable to mechanical or electrical failures and whether the violation could have been reasonably anticipated and avoided;

(C)  demonstrated good faith, including actions taken by the alleged violator to rectify the cause of the violation and to compensate affected persons;

(D)  any economic benefit gained through the violation; and

(E)  the amount necessary to deter future violations; and

(4)  any other matters that justice may require.

(d)  If, after examination of a possible violation and the facts surrounding that possible violation, the executive administrator [~~director~~] concludes that a violation has occurred, the executive administrator [~~director~~] shall issue a preliminary report stating the facts on which that conclusion was based, recommending that an administrative penalty under this section be imposed on the person charged, and recommending the amount of the penalty. The executive administrator [~~director~~] shall base the recommended amount of the proposed penalty on the factors provided by Subsection (c) [~~of this section~~] and shall analyze each factor for the benefit of the board [~~commission~~].

(e)  No later than the 10th day after the date on which the report is issued, the executive administrator [~~director~~] shall give written notice of the report to the person charged with the violation. The notice shall include a brief summary of the charges, a statement of the amount of the penalty recommended, and a statement of the right of the person charged to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f)  No later than the 20th day after the date on which notice is received, the person charged may either give to the board [~~commission~~] written consent to the executive administrator's [~~director's~~] report, including the recommended penalty, or make a written request for a hearing.

(g)  If the person charged with the violation consents to the penalty recommended by the executive administrator [~~director~~] or fails to timely respond to the notice, the board [~~commission~~] by order shall either assess the penalty or order a hearing to be held on the findings and recommendations in the executive administrator's [~~director's~~] report. If the board [~~commission~~] assesses the penalty recommended by the report, the board [~~commission~~] shall give written notice of its decision to the person charged.

(h)  If the person charged requests or the board [~~commission~~] orders a hearing, the board [~~commission~~] shall call a hearing and give notice of the hearing. As a result of the hearing, the board [~~commission~~] by order either may find that a violation has occurred and may assess a penalty, may find that a violation has occurred but that no penalty should be assessed, or may find that no violation has occurred. All proceedings under this subsection are subject to Chapter 2001, Government Code. In making any penalty decision, the board [~~commission~~] shall analyze each of the factors provided by Subsection (c) [~~of this section~~].

(i)  The board [~~commission~~] shall give notice of its decision to the person charged, and if the board [~~commission~~] finds that a violation has occurred and assesses an administrative penalty, the board [~~commission~~] shall give written notice to the person charged of its findings, of the amount of the penalty, and of the person's right to judicial review of the board's [~~commission's~~] order. If the board [~~commission~~] is required to give notice of a penalty under this subsection or Subsection (g) [~~of this section~~], the board [~~commission~~] shall file notice of its decision in the Texas Register not later than the 10th day after the date on which the decision is adopted.

(j)  Within the 30-day period immediately following the day on which the board's [~~commission's~~] order is final, as provided by Subchapter F, Chapter 2001, Government Code, the person charged with the penalty shall:

(1)  pay the penalty in full;

(2)  pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3)  without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k)  Within the 30-day period, a person who acts under Subsection (j)(3) [~~of this section~~] may:

(1)  stay enforcement of the penalty by:

(A)  paying the amount of the penalty to the court for placement in an escrow account; or

(B)  giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the board's [~~commission's~~] order is final; or

(2)  request the court to stay enforcement of the penalty by:

(A)  filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B)  giving a copy of the affidavit to the board [~~commission~~] by certified mail.

(l)  If the board [~~commission~~] receives a copy of an affidavit under Subsection (k)(2) [~~of this section~~], it may file with the court within five days after the date the copy is received a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m)  If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the board [~~commission~~] may refer the matter to the attorney general for collection of the amount of the penalty.

(n)  Judicial review of the order or decision of the board [~~commission~~] assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with a district court in Travis County, as provided by Subchapter G, Chapter 2001, Government Code.

(p)  Notwithstanding any other provision to the contrary, the board [~~commission~~] may compromise, modify, or remit, with or without condition, any penalty imposed under this section.

SECTION 28.  Sections 11.0843(a) and (b), Water Code, are amended to read as follows:

(a)  Upon witnessing a violation of this chapter or a rule or order or a water right issued under this chapter, the executive administrator [~~director~~] or a person designated by the executive administrator [~~director~~], including a watermaster or the watermaster's deputy, may issue the alleged violator a field citation alleging that a violation has occurred and providing the alleged violator the option of either:

(1)  without admitting to or denying the alleged violation, paying an administrative penalty in accordance with the predetermined penalty amount established under Subsection (b) and taking remedial action as provided in the citation; or

(2)  requesting a hearing on the alleged violation in accordance with Section 11.0842.

(b)  By rule the board [~~commission~~] shall establish penalty amounts corresponding to types of violations of this chapter or rules or orders adopted or water rights issued under this chapter.

SECTION 29.  Subchapter C, Chapter 11, Water Code, is amended by adding Section 11.0844 to read as follows:

Sec. 11.0844.  INJUNCTIVE RELIEF. (a) The executive administrator may enforce a board rule adopted under this chapter or a provision of a permit issued by the board under this chapter by injunction or other appropriate remedy.

(b)  If it appears that a violation or threat of violation of this chapter or a rule adopted or an order or a permit issued under this chapter has occurred or is about to occur, the executive administrator may have a suit instituted in district court for injunctive relief to restrain the violation or threat of violation.

(c)  The suit may be brought in the county in which the defendant resides or in the county in which the violation or threat of violation occurs.

(d)  In a suit brought under this section to enjoin a violation or threat of violation described by Subsection (b), the court may grant the board, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including a temporary restraining order and, after notice and hearing, a temporary injunction or permanent injunction.

(e)  On request of the executive administrator, the attorney general or the prosecuting attorney in a county in which the violation occurs shall initiate a suit in the name of the state for injunctive relief. The suit may be brought independently of or in conjunction with a suit under Section 11.082.

SECTION 30.  Sections 11.085(a), (d), (e), (i), (j), (k), (l), and (m), Water Code, are amended to read as follows:

(a)  No person may take or divert any state water from a river basin in this state and transfer such water to any other river basin without first applying for and receiving a water right or an amendment to a permit, certified filing, or certificate of adjudication from the board [~~commission~~] authorizing the transfer.

(d)  Prior to taking action on an application for an interbasin transfer, the board [~~commission~~] shall conduct at least one public meeting to receive comments in both the basin of origin of the water proposed for transfer and the basin receiving water from the proposed transfer. Notice shall be provided pursuant to Subsection (g) [~~of this section~~]. Any person may present relevant information and data at the meeting on the criteria which the board [~~commission~~] is to consider related to the interbasin transfer.

(e)  In addition to the public meetings required by Subsection (d), if the application is contested in a manner requiring an evidentiary hearing under the rules of the board [~~commission~~], the board [~~commission~~] shall give notice and hold an evidentiary hearing, in accordance with board [~~commission~~] rules and applicable state law. An evidentiary hearing on an application to transfer water authorized under an existing water right is limited to considering issues related to the requirements of this section.

(i)  The applicant shall pay the cost of notice required to be provided under this section. The board [~~commission~~] by rule may establish procedures for payment of those costs.

(j)  In addition to other requirements of this code relating to the review of and action on an application for a new water right or amended permit, certified filing, or certificate of adjudication, the board [~~commission~~] shall:

(1)  request review and comment on an application for an interbasin transfer from each county judge of a county located in whole or in part in the basin of origin. A county judge should make comment only after seeking advice from the county commissioners court; and

(2)  give consideration to the comments of each county judge of a county located in whole or in part in the basin of origin prior to taking action on an application for an interbasin transfer.

(k)  In addition to other requirements of this code relating to the review of and action on an application for a new water right or amended permit, certified filing, or certificate of adjudication, the board [~~commission~~] shall weigh the effects of the proposed transfer by considering:

(1)  [~~the need for the water in the basin of origin and in the proposed receiving basin based on the period for which the water supply is requested, but not to exceed 50 years;~~

[~~(2)  factors identified in the applicable approved regional water plans which address the following:~~

[~~(A)  the availability of feasible and practicable alternative supplies in the receiving basin to the water proposed for transfer;~~

[~~(B)  the amount and purposes of use in the receiving basin for which water is needed;~~

[~~(C)  proposed methods and efforts by the receiving basin to avoid waste and implement water conservation and drought contingency measures;~~

[~~(D)  proposed methods and efforts by the receiving basin to put the water proposed for transfer to beneficial use;~~

[~~(E)  the projected economic impact that is reasonably expected to occur in each basin as a result of the transfer; and~~

[~~(F)~~]  the projected impacts of the proposed transfer that are reasonably expected to occur on [~~existing water rights,~~] instream uses, water quality, aquatic and riparian habitat, and bays and estuaries that must be assessed under Sections 11.147, 11.150, and 11.152 [~~of this code~~] in each basin. If the water sought to be transferred is currently authorized to be used under an existing permit, certified filing, or certificate of adjudication, such impacts shall only be considered in relation to that portion of the permit, certified filing, or certificate of adjudication proposed for transfer and shall be based on historical uses of the permit, certified filing, or certificate of adjudication for which amendment is sought;

[~~(3)  proposed mitigation or compensation, if any, to the basin of origin by the applicant;~~

[~~(4)  the continued need to use the water for the purposes authorized under the existing permit, certified filing, or certificate of adjudication, if an amendment to an existing water right is sought;~~] and

(2) [~~(5)~~]  the information required to be submitted by the applicant.

(l)  The board [~~commission~~] may grant, in whole or in part, an application for an interbasin transfer only to the extent that:

(1)  the detriments to the basin of origin during the proposed transfer period are less than the benefits to the receiving basin during the proposed transfer period, as determined by the board [~~commission~~] based on consideration of the factors described by Subsection (k); and

(2)  the applicant for the interbasin transfer has prepared a drought contingency plan and has developed and implemented a water conservation plan that will result in the highest practicable levels of water conservation and efficiency achievable within the jurisdiction of the applicant.

(m)  The board [~~commission~~] may grant new or amended water rights under this section with or without specific terms or periods of use and with specific conditions under which a transfer of water may occur.

SECTION 31.  Sections 11.087(b) and (c), Water Code, are amended to read as follows:

(b)  The board [~~commission~~] may make and enforce rules and orders to implement the provisions of this section, including rules and orders designed to:

(1)  establish an orderly system for water releases and diversions in order to protect vested rights and to avoid the loss of released water;

(2)  prescribe the time that releases of water may begin and end;

(3)  determine the proportionate quantities of the released water in transit and the water that would have been flowing in the stream without the addition of the released water;

(4)  require each owner or operator of a dam or reservoir on the stream between the point of release and the point of destination to allow free passage of the released water in transit; and

(5)  establish other requirements the board [~~commission~~] considers necessary to effectuate the purposes of this section.

(c)  Orders made by the board [~~commission~~] to effectuate its rules under this section shall be mailed by certified mail to each diverter of water and to each reservoir owner on the stream between the point of release and the point of destination of the released water as shown by the records of the board [~~commission~~].

SECTION 32.  Section 11.0871, Water Code, is amended to read as follows:

Sec. 11.0871.  TEMPORARY DIVERSION OF WATER ON INTERNATIONAL STREAM. (a) The board [~~commission~~] may authorize, under conditions stated in an order, a watermaster to provide for the temporary diversion and use by holders of water rights of storm water or floodwater that spills from dams and reservoirs on an international stream and otherwise would flow into the Gulf of Mexico without opportunity for beneficial use.

(b)  In an order made by the board [~~commission~~] under this section, the board [~~commission~~] may not discriminate between holders of water rights from an international stream except to the extent necessary to protect the holders of water rights from the same source of supply.

(c)  The board [~~commission~~] shall give notice by mail to holders of water rights from an international stream and shall hold an evidentiary hearing before entry of an order under this section.

SECTION 33.  Section 11.093, Water Code, is amended to read as follows:

Sec. 11.093.  ABATEMENT OF WASTE AS PUBLIC NUISANCE. (a) A person who permits an unreasonable loss of water through faulty design or negligent operation of any waterworks using water for a purpose named in this chapter commits waste, and the board [~~commission~~] may declare the works causing the waste to be a public nuisance. The board [~~commission~~] may take the necessary action to abate the nuisance. Also, any person who may be injured by the waste may sue in the district court having jurisdiction over the works causing the waste to have the operation of the works abated as a public nuisance.

(b)  In case of a wasteful use of water defined by Section 11.092 [~~of this code~~], the board [~~commission~~] shall declare the use to be a public nuisance and shall act to abate the nuisance by directing the person supplying the water to close the water gates of the person wasting the water and to keep them closed until the board [~~commission~~] determines that the unlawful use of water is corrected.

SECTION 34.  Section 11.097, Water Code, is amended to read as follows:

Sec. 11.097.  REMOVAL OF OBSTRUCTIONS FROM NAVIGABLE STREAMS. (a) On its own motion or on written request from a commissioners court, the board [~~commission~~] shall investigate a reported natural obstruction in a navigable stream caused by the accumulation of limbs, logs, leaves, other tree parts, or other debris. If making the investigation on request of a commissioners court, the board [~~commission~~] must make its investigation not later than the 30th day after the date on which it receives the written request from the commissioners court.

(b)  On completion of the investigation, if the board [~~commission~~] determines that the obstruction is creating a hazard or is having other detrimental effect on the navigable stream, the board [~~commission~~] shall initiate action to remove the obstruction.

(c)  In removing an obstruction, the board [~~commission~~] may solicit the assistance of federal and state agencies including the Corps of Engineers, Texas National Guard, the Parks and Wildlife Department, and districts and authorities created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution. Also, the board [~~commission~~] may enter into contracts for services required to remove an obstruction. However, no river authority may require the removal, relocation, or reconfiguration of a floating structure which was in place before September 1, 1987, [~~the effective date of this Act~~] and the effective date of any ordinance, rule, resolution, or other act of the river authority mandating such action unless the board [~~commission~~] determines the structure is an obstruction to navigation.

SECTION 35.  Section 11.121, Water Code, is amended to read as follows:

Sec. 11.121.  PERMIT REQUIRED. Except as provided in Sections 11.1405, 11.142, 11.1421, 11.1422, and 18.003, no person may appropriate any state water or begin construction of any work designed for the storage, taking, or diversion of water without first obtaining a permit from the board [~~commission~~] to make the appropriation.

SECTION 36.  Sections 11.122(a) and (c), Water Code, are amended to read as follows:

(a)  All holders of permits, certified filings, and certificates of adjudication issued under former Section 11.323 [~~of this code~~] shall obtain from the board [~~commission~~] authority to change the place of use, purpose of use, point of diversion, rate of diversion, acreage to be irrigated, or otherwise alter a water right. Without obtaining an amendment, the holder of a permit, certified filing, or certificate of adjudication that includes industrial or irrigation use may use or supply water for an agricultural use that was classified as industrial or irrigation before September 1, 2001.

(c)  The board [~~commission~~] shall adopt rules to effectuate the provisions of this section.

SECTION 37.  Section 11.123, Water Code, is amended to read as follows:

Sec. 11.123.  PERMIT PREFERENCES. The board [~~commission~~] shall give preference to applications in the order declared in Section 11.024 [~~of this code~~] and to applications which will effectuate the maximum utilization of water and are calculated to prevent the escape of water without contribution to a beneficial public service.

SECTION 38.  Section 11.126, Water Code, is amended to read as follows:

Sec. 11.126.  BOARD [~~COMMISSION~~] REQUIREMENTS. (a) If the proposed taking or diversion of water for irrigation exceeds nine cubic feet per second, the executive administrator [~~director~~] may require additional information as prescribed by this section.

(b)  The executive administrator [~~director~~] may require a continuous longitudinal profile, cross sections of the proposed channel, and the detail plans of any proposed structure, on any scales and with any definition the executive administrator [~~director~~] considers necessary or expedient.

(c)  If the application proposes construction of a dam greater than six feet in height either for diversion or storage, the executive administrator [~~director~~] may also require filing a copy of all plans and specifications and a copy of the engineer's field notes of any survey of the lake or reservoir. No work on the project shall proceed until approval of the plans is obtained from the executive administrator [~~director~~].

(d)  If the applicant is a corporation, the board [~~commission~~] may require filing a certified copy of its articles of incorporation, a statement of the names and addresses of its directors and officers, and a statement of the amount of its authorized capital stock and its paid-up capital stock.

(e)  If the applicant is not a corporation, the board [~~commission~~] may require filing a sworn statement showing the name and address of each person interested in the appropriation, the extent of the person's [~~his~~] interest, and the person's [~~his~~] financial condition.

SECTION 39.  Section 11.127, Water Code, is amended to read as follows:

Sec. 11.127.  ADDITIONAL REQUIREMENTS: DRAINAGE PLANS. If the board [~~commission~~] believes that the efficient operation of any existing or proposed irrigation system may be adversely affected by lack of adequate drainage facilities incident to the work proposed to be done by an applicant, the board [~~commission~~] may require the applicant to submit to the executive administrator [~~director~~] for approval plans for drainage adequate to guard against any injury which the proposed work may entail.

SECTION 40.  Section 11.1271, Water Code, is amended to read as follows:

Sec. 11.1271.  ADDITIONAL REQUIREMENTS: WATER CONSERVATION PLANS. (a) The board [~~commission~~] shall require from an applicant for a new or amended water right the formulation and submission of a water conservation plan and the adoption of reasonable water conservation measures, as defined by Subdivision (8)(B), Section 11.002[~~, of this code~~].

(b)  The board [~~commission~~] shall require the holder of an existing permit, certified filing, or certificate of adjudication for the appropriation of surface water in the amount of 1,000 acre-feet a year or more for municipal, industrial, and other uses, and 10,000 acre-feet a year or more for irrigation uses, to develop, submit, and implement a water conservation plan, consistent with the appropriate approved regional water plan, that adopts reasonable water conservation measures as defined by Subdivision (8)(B), Section 11.002[~~, of this code~~]. The requirement for a water conservation plan under this section shall not result in the need for an amendment to an existing permit, certified filing, or certificate of adjudication.

(c)  All [~~Beginning May 1, 2005, all~~] water conservation plans required under this section must include specific, quantified 5-year and 10-year targets for water savings. The entity preparing the plan shall establish the targets. Targets must include goals for water loss programs and goals for municipal use in gallons per capita per day.

(d)  The [~~commission and the~~] board [~~jointly~~] shall identify quantified target goals for water conservation that water suppliers and other entities may use as guidelines in preparing water conservation plans. Goals established under this subsection are not enforceable requirements.

(e)  The [~~commission and~~] board [~~jointly~~] shall develop model water conservation programs for different types of water suppliers that suggest best management practices for achieving the highest practicable levels of water conservation and efficiency achievable for each specific type of water supplier.

(f)  The board [~~commission~~] shall adopt rules:

(1)  establishing criteria and deadlines for submission of water conservation plans, including any required amendments, and for submission of implementation reports; and

(2)  requiring the methodology and guidance for calculating water use and conservation developed under Section 16.403 to be used in the water conservation plans required by this section.

(g)  At a minimum, rules adopted under Subsection (f)(2) must require an entity to report the most detailed level of municipal water use data currently available to the entity. The board [~~commission~~] may not adopt a rule that requires an entity to report municipal water use data that is more detailed than the entity's billing system is capable of producing.

SECTION 41.  Section 11.1272, Water Code, is amended to read as follows:

Sec. 11.1272.  ADDITIONAL REQUIREMENT: DROUGHT CONTINGENCY PLANS FOR CERTAIN APPLICANTS AND WATER RIGHT HOLDERS. (a) The board [~~commission~~] shall by rule require wholesale and retail public water suppliers and irrigation districts to develop drought contingency plans consistent with the appropriate approved regional water plan to be implemented during periods of water shortages and drought.

(b)  The wholesale and retail public water suppliers and irrigation districts shall provide an opportunity for public input during preparation of their drought contingency plans and before submission of the plans to the board [~~commission~~].

(c)  A [~~By May 1, 2005, a~~] drought contingency plan required by board [~~commission~~] rule adopted under this section must include specific, quantified targets for water use reductions to be achieved during periods of water shortages and drought. The entity preparing the plan shall establish the targets.

(d)  The [~~commission and the~~] board by [~~joint~~] rule shall identify quantified target goals for drought contingency plans that wholesale and retail public water suppliers, irrigation districts, and other entities may use as guidelines in preparing drought contingency plans. Goals established under this subsection are not enforceable requirements.

(e)  The [~~commission and the~~] board [~~jointly~~] shall develop model drought contingency programs for different types of water suppliers that suggest best management practices for accomplishing the highest practicable levels of water use reductions achievable during periods of water shortages and drought for each specific type of water supplier.

SECTION 42.  Sections 11.1273(b), (c), (d), and (e), Water Code, are amended to read as follows:

(b)  Not later than the first anniversary of the date the executive administrator [~~director~~] determines that an application to amend a water management plan is administratively complete, the executive administrator [~~director~~] shall complete a technical review of the plan.

(c)  If the executive administrator [~~director~~] submits a written request for additional information to the applicant, the applicant shall submit the requested information to the executive administrator [~~director~~] not later than the 30th day after the date the applicant receives the request or not later than the deadline agreed to by the executive administrator [~~director~~] and the applicant, if applicable. The review period required by Subsection (b) for completing the technical review is tolled until the date the executive administrator [~~director~~] receives the requested information from the applicant.

(d)  The board [~~commission~~] shall provide an opportunity for public comment and a public hearing on the application, consistent with the process for other water rights applications.

(e)  If the board [~~commission~~] receives a request for a hearing before the period for submitting public comments and requesting a hearing expires, the board [~~commission~~] shall act on the request for a hearing and, if the request is denied, act on the application not later than the 60th day after the date the period expires.  If a request for a hearing is not submitted before the period expires, the executive administrator [~~director~~] may act on the application.

SECTION 43.  Section 11.128, Water Code, is amended to read as follows:

Sec. 11.128.  PAYMENT OF FEE. The applicant shall pay the filing fee prescribed by Section 12.111(e) [~~5.701~~] at the time the application is filed. The board [~~commission~~] may not record, file, or consider the application until the executive administrator [~~director~~] certifies to the board [~~commission~~] that the fee is paid.

SECTION 44.  Section 11.129, Water Code, is amended to read as follows:

Sec. 11.129.  REVIEW OF APPLICATION; AMENDMENT. The board [~~commission~~] shall determine whether the application, maps, and other materials comply with the requirements of this chapter and the rules of the board [~~commission~~]. The board [~~commission~~] may require amendment of the application, maps, or other materials to achieve necessary compliance.

SECTION 45.  Section 11.130, Water Code, is amended to read as follows:

Sec. 11.130.  RECORDING APPLICATIONS. (a) The executive administrator [~~director~~] shall have all applications for appropriations recorded in a well-bound book kept for that purpose in the board [~~commission~~] office.

(b)  The executive administrator [~~director~~] shall have the applications indexed alphabetically in the name of:

(1)  the applicant;

(2)  the stream or source from which the appropriation is sought to be made; and

(3)  the county in which the appropriation is sought to be made.

SECTION 46.  Section 11.131, Water Code, is amended to read as follows:

Sec. 11.131.  EXAMINATION AND DENIAL OF APPLICATION WITHOUT HEARING. (a) The board [~~commission~~] shall make a preliminary examination of the application, and if it appears that there is no unappropriated water in the source of supply or that the proposed appropriation should not be allowed for other reasons, the board [~~commission~~] may deny the application.

(b)  If the board [~~commission~~] denies the application under this section and the applicant elects not to proceed further, the board [~~commission~~] may order any part of the fee submitted with the application returned to the applicant.

SECTION 47.  Section 11.1311(a), Water Code, is amended to read as follows:

(a)  If a permit for a reservoir project which is listed on the effective date of this section as a recommended project in the current state water plan has been abandoned, voluntarily canceled, or forfeited for failure to commence construction within the time specified by law, and the reservoir project site is owned by a municipality, river authority, other political subdivision, or water supply corporation organized under Chapter 67, the board [~~commission~~] may reissue that same permit with a new priority date to the board without notice or hearing[~~, upon submission of an application by the board~~].

SECTION 48.  Section 11.132, Water Code, is amended to read as follows:

Sec. 11.132.  NOTICE. (a) Notice shall be given to the persons who in the judgment of the board [~~commission~~] may be affected by an application, including those persons listed in Subdivision (2), Subsection (d)[~~, of this section~~]. The board [~~commission~~], on the motion of a board member [~~commissioner~~] or on the request of the executive administrator [~~director~~] or any affected person, shall hold a public hearing on the application.

(b)  If the proposed use is for irrigation, the board [~~commission~~] shall include in the notice a general description of the location and area of the land to be irrigated.

(c)  In the notice, the board [~~commission~~] shall:

(1)  state the name and address of the applicant;

(2)  state the date the application was filed;

(3)  state the purpose and extent of the proposed appropriation of water;

(4)  identify the source of supply and the place where the water is to be stored or taken or diverted from the source of supply;

(5)  identify any proposed alternative source of water, other than state water, identified by the applicant;

(6)  specify the time and location where the board [~~commission~~] will consider the application; and

(7)  give any additional information the board [~~commission~~] considers necessary.

(d)  The board [~~commission~~] may act on the application without holding a public hearing if:

(1)  not less than 30 days before the date of action on the application by the board [~~commission~~], the applicant has published the board's [~~commission's~~] notice of the application at least once in a newspaper regularly published or circulated within the section of the state where the source of water is located;

(2)  not less than 30 days before the date of action on the application by the board [~~commission~~], the board [~~commission~~] mails a copy of the notice by first-class mail, postage prepaid, to:

(A)  each claimant or appropriator of water from the source of water supply, the record of whose claim or appropriation has been filed with the board [~~commission~~];

(B)  each groundwater conservation district with jurisdiction over the proposed groundwater production, if the applicant proposes to use groundwater from a well located within a groundwater conservation district as an alternative source of water; and

(C)  all navigation districts within the river basin concerned; and

(3)  within 30 days after the date of the newspaper publication of the board's [~~commission's~~] notice, a public hearing has not been requested in writing by a board member [~~commissioner~~], the executive administrator [~~director~~], or an affected person who objects to the application.

(e)  The inadvertent failure of the board [~~commission~~] to mail a notice under Subdivision (2), Subsection (d), [~~of this section~~] to a navigation district that is not a claimant or appropriator of water does not prevent the board's [~~commission's~~] consideration of the application.

(f)  If, on the date specified in the notice prescribed by Subsection (c) [~~of this section~~], the board [~~commission~~] determines that a public hearing must be held, the matter shall be remanded for hearing without the necessity of issuing further notice other than advising all parties of the time and place where the hearing is to convene.

SECTION 49.  Section 11.133, Water Code, is amended to read as follows:

Sec. 11.133.  HEARING. At the time and place stated in the notice, the board [~~commission~~] shall hold a hearing on the application. Any person may appear at the hearing in person or by attorney or may enter an [~~his~~] appearance in writing. Any person who appears may present objection to the issuance of the permit. The board [~~commission~~] may receive evidence, orally or by affidavit, in support of or in opposition to the issuance of the permit, and it may hear arguments.

SECTION 50.  Section 11.134, Water Code, is amended to read as follows:

Sec. 11.134.  ACTION ON APPLICATION. (a) After the hearing, the board [~~commission~~] shall make a written decision granting or denying the application. The application may be granted or denied in whole or in part.

(b)  The board [~~commission~~] shall grant the application only if:

(1)  the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;

(2)  unappropriated water is available in the source of supply;

(3)  the proposed appropriation:

(A)  is intended for a beneficial use;

(B)  does not impair existing water rights or vested riparian rights;

(C)  is not detrimental to the public welfare;

(D)  considers any applicable environmental flow standards established under Section 11.1471 and, if applicable, the assessments performed under Sections 11.147(d) and (e) and Sections 11.150, 11.151, and 11.152; and

(E)  addresses a water supply need in a manner that is consistent with the state water plan and the relevant approved regional water plan for any area in which the proposed appropriation is located, unless the board [~~commission~~] determines that conditions warrant waiver of this requirement; and

(4)  the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined by Section 11.002(8)(B).

(b-1)  In determining whether an appropriation is detrimental to the public welfare under Subsection (b)(3)(C), the board [~~commission~~] may consider only the factors that are within the jurisdiction and expertise of the board [~~commission~~] as established by this chapter.

(c)  The board [~~Beginning January 5, 2002, the commission~~] may not issue a water right for municipal purposes in a region that does not have an approved regional water plan in accordance with Section 16.053(i) unless the board [~~commission~~] determines that conditions warrant waiver of this requirement.

SECTION 51.  Section 11.135, Water Code, is amended to read as follows:

Sec. 11.135.  ISSUANCE OF PERMIT. (a) On approval of an application, the board [~~commission~~] shall issue a permit to the applicant. The applicant's right to take and use water is limited to the extent and purposes stated in the permit.

(b)  The permit shall be in writing and attested by the seal of the board [~~commission~~], and it shall contain substantially the following information:

(1)  the name of the person to whom the permit is issued;

(2)  the date the permit is issued;

(3)  the date the original application was filed;

(4)  the use or purpose for which the appropriation is to be made;

(5)  the amount or volume of water authorized to be appropriated for each purpose; if use of the appropriated water is authorized for multiple purposes, the permit shall contain a special condition limiting the total amount of water that may actually be diverted for all of the purposes to the amount of water appropriated;

(6)  a general description of the source of supply from which the appropriation is proposed to be made, including any alternative source of water that is not state water;

(7)  the time within which construction or work must begin and the time within which it must be completed; and

(8)  any other information the board [~~commission~~] prescribes.

(c)  If the appropriation is for irrigation, the board [~~commission~~] shall also place in the permit a description and statement of the approximate area of the land to be irrigated.

SECTION 52.  Section 11.1351, Water Code, is amended to read as follows:

Sec. 11.1351.  PERMIT RESTRICTIONS. In granting an application, the board [~~commission~~] may direct that stream flow restrictions and other conditions and restrictions be placed in the permit being issued to protect the priority of senior water rights.

SECTION 53.  Section 11.136(a), Water Code, is amended to read as follows:

(a)  The board [~~commission~~] shall transmit the permit by registered mail to the county clerk of the county in which the appropriation is to be made.

SECTION 54.  Sections 11.137(a) and (c), Water Code, are amended to read as follows:

(a)  The board [~~commission~~] may issue seasonal permits in the same manner that it issues regular permits. The provisions of this chapter governing issuance of regular permits apply to issuance of seasonal permits.

(c)  In a seasonal permit, the board [~~commission~~] shall specify the conditions necessary to fully protect prior appropriations or vested rights on the stream.

SECTION 55.  Sections 11.138(a), (b), (d), (f), and (g), Water Code, are amended to read as follows:

(a)  The board [~~commission~~] may issue temporary permits for beneficial purposes to the extent that they do not interfere with or adversely affect prior appropriations or vested rights on the stream from which water is to be diverted under such temporary permit. The board [~~commission~~] may, by appropriate order, authorize any member of the board [~~commission~~] to approve and issue temporary permits without notice and hearing if it appears to such issuing party that sufficient water is available at the proposed point of diversion to satisfy the requirements of the temporary permit as well as all existing rights. No temporary permit issued without notice and hearing shall authorize more than 10 acre-feet of water, nor may it be for a term in excess of one year.

(b)  The board [~~commission~~] may prescribe rules governing notice and procedure for the issuance of temporary permits.

(d)  The board [~~commission~~] may not issue a temporary permit for a period exceeding three calendar years.

(f)  A temporary permit expires and shall be cancelled by the board [~~commission~~] in accordance with the terms of the permit.

(g)  The board [~~commission~~] may prescribe by rule the fees to be paid for issuance of temporary permits, but no fee for issuance or extension of a temporary permit shall exceed $500.

SECTION 56.  Sections 11.1381(a), (b), and (c), Water Code, are amended to read as follows:

(a)  Until a water right is perfected to the full extent provided by Section 11.026 [~~of this code~~], the board [~~commission~~] may issue permits for a term of years for use of state water to which a senior water right has not been perfected.

(b)  The board [~~commission~~] shall refuse to grant an application for a permit under this section if the board [~~commission~~] finds that there is a substantial likelihood that the issuance of the permit will jeopardize financial commitments made for water projects that have been built or that are being built to optimally develop the water resources of the area.

(c)  The board [~~commission~~] shall refuse to grant an application for a term permit if the holder of the senior appropriative water right can demonstrate that the issuance of the term permit would prohibit the senior appropriative water right holder from beneficially using the senior rights during the term of the term permit. Such demonstration will be made using reasonable projections based on accepted methods.

SECTION 57.  Sections 11.139(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k), Water Code, are amended to read as follows:

(a)  Except as provided by Section 11.148 [~~of this code~~], the board [~~commission~~] may grant an emergency permit, order, or amendment to an existing permit, certified filing, or certificate of adjudication after notice to the governor for an initial period of not more than 120 days if the board [~~commission~~] finds that emergency conditions exist which present an imminent threat to the public health and safety and which override the necessity to comply with established statutory procedures and there are no feasible practicable alternatives to the emergency authorization. Such emergency action may be renewed once for not longer than 60 days.

(b)  A person desiring to obtain an emergency authorization under this section shall submit to the board [~~commission~~] a sworn application containing the following information:

(1)  a description of the condition of emergency justifying the granting of the emergency authorization;

(2)  a statement setting forth facts which support the findings required under this section;

(3)  an estimate of the dates on which the proposed authorization should begin and end;

(4)  a description of the action sought and the activity proposed to be allowed, mandated, or prohibited; and

(5)  any other statements or information required by the board [~~commission~~].

(c)  If the board [~~commission~~] finds the applicant's statement made under Subsection (b) [~~of this section~~] to be correct, the board [~~commission~~] may grant emergency authorizations under this section without notice and hearing or with such notice and hearing as the board [~~commission~~] considers practicable under the circumstances.

(d)  If the board [~~commission~~] grants an emergency authorization under this section without a hearing, the authorization shall fix a time and place for a hearing to be held before the board [~~commission~~]. The hearing shall be held as soon after the emergency authorization is granted as is practicable but not later than 20 days after the emergency authorization is granted.

(e)  At the hearing, the board [~~commission~~] shall affirm, modify, or set aside the emergency authorization. Any hearing on an emergency authorization shall be conducted in accordance with Chapter 2001, Government Code, and rules of the board [~~commission~~].

(f)  If an imminent threat to the public health and safety exists which requires emergency action before the board [~~commission~~] can take action as provided by Subsections (a) through (c) [~~of this section~~] and there are no feasible alternatives, the executive administrator [~~director~~] may grant an emergency authorization after notice to the governor. If the executive administrator [~~director~~] issues an emergency authorization under this subsection, the board [~~commission~~] shall hold a hearing as provided for in Subsections (d) and (e) [~~of this section~~]. The requirements of Subsection (b) [~~of this section~~] shall be satisfied by the applicant before action is taken by the executive administrator [~~director~~] on the request for emergency authorization.

(g)  The requirements of Section 11.132 [~~of this code~~] relating to the time for notice, newspaper notice, and method of giving a person notice do not apply to a hearing held on an application for an emergency authorization under this section, but such general notice of the hearing shall be given as the board [~~commission~~], under Subsections (c) and (e) [~~of this section~~], considers practicable under the circumstances.

(h)  The board [~~commission~~] may grant an emergency authorization under this section for the temporary transfer and use of all or part of a permit, certified filing, or certificate of adjudication for other than domestic or municipal use to a retail or wholesale water supplier for public health and safety purposes. In addition to the requirements contained in Subsection (b) [~~of this section~~], the board [~~commission~~] may direct that the applicant will timely pay the amounts for which the applicant may be potentially liable under Subsection (j) [~~of this section~~] and to the extent authorized by law will fully indemnify and hold harmless the state, the executive administrator [~~director~~], and the board [~~commission~~] from any and all liability for the authorization sought. The board [~~commission~~] may order bond or other surety in a form acceptable to the board [~~commission~~] as a condition for such emergency authorization. The board [~~commission~~] may not grant an emergency authorization under this section which would cause a violation of a federal regulation.

(i)  In transferring the amount of water requested by the applicant, the executive administrator [~~director~~] or the board [~~commission~~] shall allocate the requested amount among two or more permits, certified filings, or certificates of adjudication for other than domestic or municipal use.

(j)  The person granted an emergency authorization under Subsection (h) [~~of this section~~] is liable to the owner and the owner's agent or lessee from whom the use is transferred for the fair market value of the water transferred as well as for any damages caused by the transfer of use. If, within 60 days of the termination of the authorization, the parties do not agree on the amount due, or if full payment is not made, either party may file a complaint with the board [~~commission~~] to determine the amount due. The board [~~commission~~] may use dispute resolution procedures for a complaint filed under this subsection. After exhausting all administrative remedies under this subsection, an owner from whom the use is transferred may file suit to recover or determine the amount due in a district court in the county where the owner resides or has its headquarters. The prevailing party in a suit filed under this subsection is entitled to recover court costs and reasonable attorney's fees.

(k)  The board [~~commission~~] may prescribe rules and adopt fees which are necessary to carry out the provisions of this section.

SECTION 58.  Section 11.140, Water Code, is amended to read as follows:

Sec. 11.140.  PERMITS FOR STORAGE FOR PROJECT DEVELOPMENT. The board [~~commission~~] may issue permits for storage solely for the purpose of optimum development of projects. The board [~~commission~~] may convert these permits to permits for beneficial use if application to have them converted is made to the board [~~commission~~].

SECTION 59.  Sections 11.1405(a), (c), (d), (e), (f), (g), and (h), Water Code, are amended to read as follows:

(a)  The board [~~commission~~] may issue a permit under this section to authorize a diversion of state water from the Gulf of Mexico or a bay or arm of the Gulf of Mexico for desalination and use for industrial purposes if:

(1)  the point of diversion is located less than three miles seaward of any point located on the coast of this state; or

(2)  the seawater contains a total dissolved solids concentration based on a yearly average of samples taken monthly at the water source of less than 20,000 milligrams per liter.

(c)  A person who diverts and uses state water that consists of marine seawater under a permit issued under Subsection (a) or as authorized by Subsection (b) must determine the total dissolved solids concentration of the seawater at the water source by monthly sampling and analysis and provide the data collected to the board [~~commission~~]. A person may not begin construction of a facility for the diversion of marine seawater for the purposes provided by this section without obtaining a permit until the person has provided data to the board [~~commission~~] based on the analysis of samples taken at the water source over a period of at least one year demonstrating that Subsection (a)(2) does not apply. A person who has begun construction of a facility for the diversion of marine seawater for the purposes provided by this section without obtaining a permit because the person has demonstrated that Subsection (a)(2) does not apply is not required to obtain a permit for the facility if the total dissolved solids concentration of the seawater at the water source subsequently changes so that Subsection (a)(2) applies.

(d)  A permit application under this section must be submitted as required by board [~~commission~~] rule.

(e)  The board [~~commission~~] is not required to make a finding of water availability for an application under this section.

(f)  The board [~~commission~~] shall evaluate whether any proposed diversion under this section is consistent with any applicable environmental flow standards established under Section 11.1471.

(g)  The board [~~commission~~] may include any provision in a permit issued under this section that the board [~~commission~~] considers necessary to comply with the environmental flow standards established under Section 11.1471.

(h)  The board [~~commission~~] shall adopt rules providing an expedited procedure for acting on an application for a permit under Subsection (a). The rules must provide for notice, an opportunity for the submission of written comment, and an opportunity for a contested case hearing regarding board [~~commission~~] actions relating to an application for a permit.

SECTION 60.  Section 11.141, Water Code, is amended to read as follows:

Sec. 11.141.  DATE OF PRIORITY. When the board [~~commission~~] issues a permit, the priority of the appropriation of water and the claimant's right to use the water date from the date of filing of the application.

SECTION 61.  Sections 11.1421(c), (d), and (e), Water Code, are amended to read as follows:

(c)  Before a person first takes water under Subsection (b) [~~of this section~~], the person must give notice to the board [~~commission~~] of the proposed appropriation.

(d)  Each appropriation of water made under Subsection (b) [~~of this section~~] shall be reported to the board [~~commission~~] in the manner provided by the board's [~~commission's~~] rules.

(e)  After notice and hearing, if the board [~~commission~~] determines that as a result of low freshwater inflows appropriation of water under Subsection (b) [~~of this section~~] would interfere with natural productivity of bays and estuaries, the board [~~commission~~] shall issue an order requiring interruption or reduction of the appropriation.

SECTION 62.  Section 11.1422(b), Water Code, is amended to read as follows:

(b)  The executive administrator [~~director~~] or a watermaster who has jurisdiction over the river from which a cemetery diverts water under this section by order may restrict a diversion authorized by this section if the executive administrator [~~director~~] or watermaster determines the diversion will harm a person downstream of the cemetery who acquired a water right before the date this section took effect. The executive administrator [~~director~~] or watermaster shall limit the restriction to the extent of the harm and to the period of the harm.

SECTION 63.  Sections 11.143(b), (d), (e), (f), (g), (h), and (i), Water Code, are amended to read as follows:

(b)  If the applicant elects to proceed under this section, the applicant [~~he~~] shall submit to the board [~~commission~~] a sworn application, on a form furnished by the board [~~commission~~], containing the following information:

(1)  the name and post-office address of the applicant;

(2)  the nature and purpose of the use and the amount of water to be used annually for each purpose;

(3)  the major watershed and the tributary (named or unnamed) on which the dam or reservoir is located;

(4)  the county in which the dam or reservoir is located;

(5)  the approximate distance and direction from the county seat of the county to the location of the dam or reservoir;

(6)  the survey or the portion of the survey on which the dam or reservoir is located and, to the best of the applicant's knowledge and belief, the distance and direction of the midpoint of the dam or reservoir from a corner of the survey, which information the executive administrator [~~director~~] may require to be marked on an aerial photograph or map furnished by the board [~~commission~~];

(7)  the approximate surface area, to the nearest acre, of the reservoir when it is full and the average depth in feet when it is full; and

(8)  the approximate number of square miles in the drainage area above the dam or reservoir.

(d)  Except as otherwise specifically provided by this subsection, before the board [~~commission~~] may approve the application and issue the permit, it shall give notice and hold a hearing as prescribed by this section. The board [~~commission~~] may act on the application without holding a public hearing if:

(1)  not less than 30 days before the date of action on the application by the board [~~commission~~], the applicant has published the board's [~~commission's~~] notice of the application at least once in a newspaper regularly published or circulated within the section of the state where the source of water is located;

(2)  not less than 30 days before the date of action on the application by the board [~~commission~~], the board [~~commission~~] mails a copy of the notice by first-class mail, postage prepaid, to each person whose claim or appropriation has been filed with the board [~~commission~~] and whose diversion point is downstream from that described in the application; and

(3)  within 30 days after the date of the newspaper publication of the board's [~~commission's~~] notice, a public hearing is not requested in writing by a board member [~~commissioner~~], the executive administrator [~~director~~], or an affected person who objects to the application.

(e)  In the notice, the board [~~commission~~] shall:

(1)  state the name and post-office address of the applicant;

(2)  state the date the application was filed;

(3)  state the purpose and extent of the proposed appropriation of water;

(4)  identify the source of supply, including any proposed alternative source of water, other than state water, identified by the applicant, and the place where the water is stored; and

(5)  specify the time and place of the hearing.

(f)  The notice shall be published only once, at least 20 days before the date stated in the notice for the hearing on the application, in a newspaper having general circulation in the county where the dam or reservoir is located. At least 15 days before the date set for the hearing, the board [~~commission~~] shall transmit a copy of the notice by first-class mail to each person whose claim or appropriation has been filed with the board [~~commission~~] and whose diversion point is downstream from that described in the application. If the notice identifies groundwater from a well located in a groundwater conservation district as a proposed alternative source of water, the notice shall be:

(1)  sent to the groundwater conservation district in which the well is located; and

(2)  published, at least 20 days before the date stated in the notice for the hearing, in a newspaper having general circulation in each county in which the groundwater district is located.

(g)  If on the date specified in the notice prescribed by Subsection (d) [~~of this section~~], the board [~~commission~~] determines that a public hearing must be held, the matter shall be remanded for hearing without the necessity of issuing further notice other than advising all parties of the time and place where the hearing is to convene.

(h)  The applicant shall pay the filing fee prescribed by Section 12.111(e) [~~5.701(c)~~] at the time the applicant [~~he~~] files the application.

(i)  The board [~~commission~~] shall approve the application and issue the permit as applied for in whole or part if it determines that:

(1)  there is unappropriated water in the source of supply;

(2)  the applicant has met the requirements of this section;

(3)  the water is to be used for a beneficial purpose;

(4)  the proposed use is not detrimental to the public welfare or to the welfare of the locality; and

(5)  the proposed use will not impair existing water rights.

SECTION 64.  Section 11.144, Water Code, is amended to read as follows:

Sec. 11.144.  APPROVAL FOR ALTERATIONS. All holders of permits and certified filings shall obtain the approval of the board [~~commission~~] before making any alterations, enlargements, extensions, or other changes to any reservoir, dam, main canal, or diversion work on which a permit has been granted or a certified filing recorded. A detailed statement and plans for alterations or changes shall be filed with the board [~~commission~~] and approved by the executive administrator [~~director~~] before the alterations or changes are made. This section does not apply to the ordinary maintenance or emergency repair of the facility.

SECTION 65.  Section 11.145, Water Code, is amended to read as follows:

Sec. 11.145.  WHEN CONSTRUCTION MUST BEGIN. (a) If a permit is for appropriation by direct diversion, construction of the proposed facilities shall begin within the time fixed by the board [~~commission~~], which shall not exceed two years after the date the permit is issued. The appropriator shall work diligently and continuously to the completion of the construction. The board [~~commission~~] may, by entering an order of record, extend the time for beginning construction. The board [~~commission~~] may establish fees, not to exceed $1,000, for extending the time to begin construction of the proposed facilities.

(b)  If the permit contemplates construction of a storage reservoir, construction shall begin within the time fixed by the board [~~commission~~], not to exceed two years after the date the permit is issued. The board [~~commission~~], by entering an order of record, may extend the time for beginning construction. The board [~~commission~~] may fix fees, not to exceed $1,000, for extending the time to begin construction of reservoirs.

SECTION 66.  Sections 11.146(c) and (d), Water Code, are amended to read as follows:

(c)  If the board [~~commission~~] believes that an appropriation or permit should be declared forfeited under this section or any other sections of this code, it should give the appropriator or permittee 30 days notice and provide the appropriator or permittee [~~him~~] with an opportunity to be heard.

(d)  After the hearing, the board [~~commission~~] by entering an order of record may cancel the appropriation in whole or part. The board [~~commission~~] shall immediately transmit a certified copy of the cancellation order by certified mail to the county clerk of the county in which the permit is recorded. The county clerk shall record the cancellation order.

SECTION 67.  Sections 11.147(b), (c), (d), (e), (e-1), (e-3), (f), and (g), Water Code, are amended to read as follows:

(b)  In its consideration of an application for a permit to store, take, or divert water, the board [~~commission~~] shall assess the effects, if any, of the issuance of the permit on the bays and estuaries of Texas. For permits issued within an area that is 200 river miles of the coast, to commence from the mouth of the river thence inland, the board [~~commission~~] shall include in the permit any conditions considered necessary to maintain beneficial inflows to any affected bay and estuary system, to the extent practicable when considering all public interests and the studies mandated by Section 16.058 as evaluated under Section 11.1491.

(c)  For the purposes of making a determination under Subsection (b) [~~of this section~~], the board [~~commission~~] shall consider among other factors:

(1)  the need for periodic freshwater inflows to supply nutrients and modify salinity to preserve the sound environment of the bay or estuary, using any available information, including studies and plans specified in Section 11.1491 [~~of this code~~] and other studies considered by the board [~~commission~~] to be reliable; together with existing circumstances, natural or otherwise, that might prevent the conditions imposed from producing benefits;

(2)  the ecology and productivity of the affected bay and estuary system;

(3)  the expected effects on the public welfare of not including in the permit some or all of the conditions considered necessary to maintain the beneficial inflows to the affected bay or estuary system;

(4)  the quantity of water requested and the proposed use of water by the applicant, as well as the needs of those who would be served by the applicant;

(5)  the expected effects on the public welfare of the failure to issue all or part of the permit being considered; and

(6)  for purposes of this section, the declarations as to preferences for competing uses of water as found in Sections 11.024 and 11.033, [~~Water Code,~~] as well as the public policy statement in Section 1.003[~~, Water Code~~].

(d)  In its consideration of an application to store, take, or divert water, the board [~~commission~~] shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the board [~~commission~~] necessary to maintain existing instream uses and water quality of the stream or river to which the application applies. In determining what conditions to include in the permit under this subsection, the board [~~commission~~] shall consider among other factors:

(1)  the studies mandated by Section 16.059; and

(2)  any water quality assessment performed under Section 11.150.

(e)  The board [~~commission~~] shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the board [~~commission~~] necessary to maintain fish and wildlife habitats. In determining what conditions to include in the permit under this subsection, the board [~~commission~~] shall consider any assessment performed under Section 11.152.

(e-1)  Any permit for a new appropriation of water or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted must include a provision allowing the board [~~commission~~] to adjust the conditions included in the permit or amended water right to provide for protection of instream flows or freshwater inflows. With respect to an amended water right, the provision may not allow the board [~~commission~~] to adjust a condition of the amendment other than a condition that applies only to the increase in the amount of water to be stored, taken, or diverted authorized by the amendment. This subsection does not affect an appropriation of or an authorization to store, take, or divert water under a permit or amendment to a water right issued before September 1, 2007. The board [~~commission~~] shall adjust the conditions if the board [~~commission~~] determines, through an expedited public comment process, that such an adjustment is appropriate to achieve compliance with applicable environmental flow standards adopted under Section 11.1471. The adjustment:

(1)  in combination with any previous adjustments made under this subsection may not increase the amount of the pass-through or release requirement for the protection of instream flows or freshwater inflows by more than 12.5 percent of the annualized total of that requirement contained in the permit as issued or of that requirement contained in the amended water right and applicable only to the increase in the amount of water authorized to be stored, taken, or diverted under the amended water right;

(2)  must be based on appropriate consideration of the priority dates and diversion locations of any other water rights granted in the same river basin that are subject to adjustment under this subsection; and

(3)  must be based on appropriate consideration of any voluntary contributions to the Texas Water Trust, and of any voluntary amendments to existing water rights to change the use of a specified quantity of water to or add a use of a specified quantity of water for instream flows dedicated to environmental needs or bay and estuary inflows as authorized by Section 11.0237(a), that actually contribute toward meeting the applicable environmental flow standards.

(e-3)  Notwithstanding Subsections (b)-(e), for the purpose of determining the environmental flow conditions necessary to maintain freshwater inflows to an affected bay and estuary system, existing instream uses and water quality of a stream or river, or fish and aquatic wildlife habitats, the board [~~commission~~] shall apply any applicable environmental flow standard, including any environmental flow set-aside, adopted under Section 11.1471 instead of considering the factors specified by those subsections.

(f)  On receipt of an application for a permit to store, take, or divert water, the board [~~commission~~] shall send a copy of the permit application and any subsequent amendments to the Parks and Wildlife Department. At its option, the Parks and Wildlife Department may be a party in hearings on applications for permits to store, take, or divert water. In making a final decision on any application for a permit, the board [~~commission~~], in addition to other information, evidence, and testimony presented, shall consider all information, evidence, and testimony presented by the Parks and Wildlife Department [~~and the board~~].

(g)  The failure of the Parks and Wildlife Department to appear as a party does not relieve the board [~~commission~~] of the requirements of this section.

SECTION 68.  Sections 11.1471(a), (b), (d), (e), and (f), Water Code, are amended to read as follows:

(a)  The board [~~commission~~] by rule shall:

(1)  adopt appropriate environmental flow standards for each river basin and bay system in this state that are adequate to support a sound ecological environment, to the maximum extent reasonable considering other public interests and other relevant factors;

(2)  establish an amount of unappropriated water, if available, to be set aside to satisfy the environmental flow standards to the maximum extent reasonable when considering human water needs; and

(3)  establish procedures for implementing an adjustment of the conditions included in a permit or an amended water right as provided by Sections 11.147(e-1) and (e-2).

(b)  In adopting environmental flow standards for a river basin and bay system under Subsection (a)(1), the board [~~commission~~] shall consider:

(1)  the definition of the geographical extent of the river basin and bay system adopted by the advisory group under Section 11.02362(a) and the definition and designation of the river basin by the board under Section 16.051(c);

(2)  the schedule established by the advisory group under Section 11.02362(d) or (e) for the adoption of environmental flow standards for the river basin and bay system, if applicable;

(3)  the environmental flow analyses and the recommended environmental flow regime developed by the applicable basin and bay expert science team under Section 11.02362(m);

(4)  the recommendations developed by the applicable basin and bay area stakeholders committee under Section 11.02362(o) regarding environmental flow standards and strategies to meet the flow standards;

(5)  any comments submitted by the advisory group to the board [~~commission~~] under Section 11.02362(q);

(6)  the specific characteristics of the river basin and bay system;

(7)  economic factors;

(8)  the human and other competing water needs in the river basin and bay system;

(9)  all reasonably available scientific information, including any scientific information provided by the science advisory committee; and

(10)  any other appropriate information.

(d)  As provided by Section 11.023, the board [~~commission~~] may not issue a permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted if the issuance of the permit or amendment would impair an environmental flow set-aside established under Subsection (a)(2). A permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted that is issued after the adoption of an applicable environmental flow set-aside must contain appropriate conditions to ensure protection of the environmental flow set-aside.

(e)  An environmental flow set-aside established under Subsection (a)(2) for a river basin and bay system other than the middle and lower Rio Grande must be assigned a priority date corresponding to the date the board [~~commission~~] receives environmental flow regime recommendations from the applicable basin and bay expert science team and be included in the appropriate water availability models in connection with an application for a permit for a new appropriation or for an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted.

(f)  An environmental flow standard or environmental flow set-aside adopted under Subsection (a) may be altered by the board [~~commission~~] in a rulemaking process undertaken in accordance with a schedule established by the board [~~commission~~]. In establishing a schedule, the board [~~commission~~] shall consider the applicable work plan approved by the advisory group under Section 11.02362(p). The board's [~~commission's~~] schedule may not provide for the rulemaking process to occur more frequently than once every 10 years unless the work plan provides for a periodic review under Section 11.02362(p) to occur more frequently than once every 10 years. In that event, the board [~~commission~~] may provide for the rulemaking process to be undertaken in conjunction with the periodic review if the board [~~commission~~] determines that schedule to be appropriate. A rulemaking process undertaken under this subsection must provide for the participation of stakeholders having interests in the particular river basin and bay system for which the process is undertaken.

SECTION 69.  Section 11.148, Water Code, is amended to read as follows:

Sec. 11.148.  EMERGENCY SUSPENSION OF PERMIT CONDITIONS AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR ENVIRONMENTAL FLOWS. (a) Permit conditions relating to beneficial inflows to affected bays and estuaries and instream uses may be suspended by the board [~~commission~~] if the board [~~commission~~] finds that an emergency exists and cannot practically be resolved in other ways.

(a-1)  State water that is set aside by the board [~~commission~~] to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471(a)(2) may be made available temporarily for other essential beneficial uses if the board [~~commission~~] finds that an emergency exists that cannot practically be resolved in another way.

(b)  Before the board [~~commission~~] suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1), it must give written notice to the Parks and Wildlife Department of the proposed action. The board [~~commission~~] shall give the Parks and Wildlife Department an opportunity to submit comments on the proposed action within 72 hours from such time and the board [~~commission~~] shall consider those comments before issuing its order implementing the proposed action.

(c)  The board [~~commission~~] may suspend the permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) without notice to any other interested party other than the Parks and Wildlife Department as provided by Subsection (b). However, all affected persons shall be notified immediately by publication, and a hearing to determine whether the suspension should be continued shall be held within 15 days of the date on which the order to suspend is issued.

SECTION 70.  Section 11.1491, Water Code, is amended to read as follows:

Sec. 11.1491.  EVALUATION OF BAYS AND ESTUARIES DATA. (a) The Parks and Wildlife Department and the board [~~commission~~] shall have joint responsibility to review the studies prepared under Section 16.058, to determine inflow conditions necessary for the bays and estuaries, and to provide information necessary for water resources management. Each agency shall designate an employee to share equally in the oversight of the program. Other responsibilities shall be divided between the Parks and Wildlife Department and the board [~~commission~~] to maximize present in-house capabilities of personnel and to minimize costs to the state. Each agency shall have reasonable access to all information produced by the other agency. Publication of reports completed under this section shall be submitted for comment to the board [~~commission~~], the Parks and Wildlife Department, the advisory group, the science advisory committee, and any applicable basin and bay area stakeholders committee and basin and bay expert science team.

(b) [~~(c)~~]  The board may authorize the use of money from the research and planning fund established by Chapter 15 [~~of this code~~] to accomplish the purposes of this section. These funds shall be used by the board [~~commission~~] in cooperation with the Parks and Wildlife Department for interagency contracts with cooperating agencies and universities, and contracts with private sector establishments, as necessary, to accomplish the purposes of this section.

SECTION 71.  Section 11.150, Water Code, is amended to read as follows:

Sec. 11.150.  EFFECTS OF PERMITS ON WATER QUALITY. In consideration of an application for a permit under this subchapter, the board [~~commission~~] shall assess the effects, if any, of the issuance of the permit on water quality in this state.

SECTION 72.  Section 11.1501, Water Code, is amended to read as follows:

Sec. 11.1501.  CONSIDERATION AND REVISION OF PLANS. In considering an application for a permit to store, take, or divert surface water, or for an amendment to a permit, certified filing, or certificate of adjudication, the board [~~commission~~] shall consider the state water plan and any approved regional water plan for the area or areas in which the water is proposed to be stored, diverted, or used.

SECTION 73.  Section 11.151, Water Code, is amended to read as follows:

Sec. 11.151.  EFFECTS OF PERMITS ON GROUNDWATER. In considering an application for a permit to store, take, or divert surface water, the board [~~commission~~] shall consider the effects, if any, on groundwater or groundwater recharge.

SECTION 74.  Section 11.152, Water Code, is amended to read as follows:

Sec. 11.152.  ASSESSMENT OF EFFECTS OF PERMITS ON FISH AND WILDLIFE HABITATS. In its consideration of an application for a permit to store, take, or divert water in excess of 5,000 acre feet per year, the board [~~commission~~] shall assess the effects, if any, on the issuance of the permit on fish and wildlife habitats and may require the applicant to take reasonable actions to mitigate adverse impacts on such habitat. In determining whether to require an applicant to mitigate adverse impacts on a habitat, the board [~~commission~~] may consider any net benefit to the habitat produced by the project. The board [~~commission~~] shall offset against any mitigation required by the U.S. Fish and Wildlife Service pursuant to 33 C.F.R. Parts 320-330 any mitigation authorized by this section.

SECTION 75.  Section 11.153(c), Water Code, is amended to read as follows:

(c)  This section does not preclude the board [~~commission~~] from considering an aquifer storage and recovery project to be a component of a project permitted under this chapter that is not required to be based on the continuous availability of historic, normal stream flow.

SECTION 76.  Sections 11.171(3) and (4), Water Code, are amended to read as follows:

(3)  "Certificate of adjudication" means a certificate issued by the commission under former Section 11.323 [~~of this code~~].

(4)  "Permit" means an authorization by the board or by the commission under former law granting a person the right to use water.

SECTION 77.  Section 11.173(b), Water Code, is amended to read as follows:

(b)  A permit, certified filing, or certificate of adjudication or a portion of a permit, certified filing, or certificate of adjudication is exempt from cancellation under Subsection (a):

(1)  to the extent of the owner's participation in the Conservation Reserve Program authorized by the Food Security Act, Pub.L. No. 99-198, Secs. 1231-1236, 99 Stat. 1354, 1509-1514 (1985) or a similar governmental program;

(2)  if a significant portion of the water authorized to be used pursuant to a permit, certified filing, or certificate of adjudication has been used in accordance with a specific recommendation for meeting a water need included in the regional water plan approved pursuant to Section 16.053;

(3)  if the permit, certified filing, or certificate of adjudication:

(A)  was obtained to meet demonstrated long-term public water supply or electric generation needs as evidenced by a water management plan developed by the holder; and

(B)  is consistent with projections of future water needs contained in the state water plan;

(4)  if the permit, certified filing, or certificate of adjudication was obtained as the result of the construction of a reservoir funded, in whole or in part, by the holder of the permit, certified filing, or certificate of adjudication as part of the holder's long-term water planning; or

(5)  to the extent the nonuse resulted from:

(A)  the implementation of water conservation measures under a water conservation plan submitted by the holder of the permit, certified filing, or certificate of adjudication as evidenced by implementation reports submitted by the holder;

(B)  a suspension, adjustment, or other restriction on the use of the water authorized to be appropriated under the permit, certified filing, or certificate of adjudication imposed under an order issued by the executive administrator [~~director~~]; or

(C)  an inability to appropriate the water authorized to be appropriated under the permit, certified filing, or certificate of adjudication due to drought conditions.

SECTION 78.  Section 11.174, Water Code, is amended to read as follows:

Sec. 11.174.  BOARD [~~COMMISSION~~] MAY INITIATE PROCEEDINGS. When the board [~~commission~~] finds that its records do not show that some portion of the water has been used during the past 10 years, the executive administrator [~~director~~] may initiate proceedings, terminated by public hearing, to cancel the permit, certified filing, or certificate of adjudication in whole or in part.

SECTION 79.  Section 11.175, Water Code, is amended to read as follows:

Sec. 11.175.  NOTICE. (a) At least 45 days before the date of the hearing, the board [~~commission~~] shall send notice of the hearing to the holder of the permit, certified filing, or certificate of adjudication being considered for cancellation in whole or in part. Notice shall be sent by certified mail, return receipt requested, to the last address shown by the records of the board [~~commission~~]. The board [~~commission~~] shall also send notice by regular mail to all other holders of permits, certified filings, certificates of adjudication, and claims of unadjudicated water rights filed pursuant to former Section 11.303 [~~of this code~~] in the same watershed.

(b)  The board [~~commission~~] shall also have the notice of the hearing published once a week for two consecutive weeks, at least 30 days before the date of the hearing, in a newspaper published in each county in which diversion of water from the source of supply was authorized or proposed to be made and in each county in which the water was authorized or proposed to be used, as shown by the records of the board [~~commission~~]. If in any such county no newspaper is published, then the notice may be published in a newspaper having general circulation in the county.

SECTION 80.  Section 11.176(a), Water Code, is amended to read as follows:

(a)  Except as provided by Subsection (b) [~~of this section~~], the board [~~commission~~] shall hold a hearing and shall give the holder of the permit, certified filing, or certificate of adjudication and other interested persons an opportunity to be heard and to present evidence on any matter pertinent to the questions at issue.

SECTION 81.  Section 11.177, Water Code, is amended to read as follows:

Sec. 11.177.  BOARD [~~COMMISSION~~] FINDING; ACTION. (a) At the conclusion of the hearing, the board [~~commission~~] shall cancel the permit, certified filing, or certificate of adjudication in whole or in part to the extent that it finds that:

(1)  the water or any portion of the water appropriated under the permit, certified filing, or certificate of adjudication has not been put to an authorized beneficial use during the 10-year period; and

(2)  the holder has not used reasonable diligence in applying the water or the unused portion of the water to an authorized beneficial use or is otherwise unjustified in the nonuse.

(b)  In determining what constitutes reasonable diligence or a justified nonuse as used in Subsection (a)(2), the board [~~commission~~] shall give consideration to:

(1)  whether sufficient water is available in the source of supply to meet all or part of the appropriation during the 10-year period of nonuse;

(2)  whether the nonuse is justified by the holder's participation in the federal Conservation Reserve Program or a similar governmental program as provided by Section 11.173(b)(1);

(3)  whether the existing or proposed authorized purpose and place of use are consistent with an approved regional water plan as provided by Section 16.053;

(4)  whether the permit, certified filing, or certificate of adjudication has been deposited into the Texas Water Bank as provided by Sections 15.7031 and 15.704 or whether it can be shown that the water right or water available under the right is currently being made available for purchase through private marketing efforts; or

(5)  whether the permit, certified filing, or certificate of adjudication has been reserved to provide for instream flows or bay and estuary inflows.

SECTION 82.  Section 11.183, Water Code, is amended to read as follows:

Sec. 11.183.  RESERVOIR. If the holder of a permit, certified filing, or certificate of adjudication has facilities for the storage of water in a reservoir, the board [~~commission~~] may allow the holder [~~him~~] to retain the impoundment to the extent of the conservation storage capacity of the reservoir for domestic, livestock, or recreation purposes.

SECTION 83.  Section 11.203, Water Code, is amended to read as follows:

Sec. 11.203.  ARTESIAN WELL: DRILLING RECORD. A person who drills an artesian well or has one drilled shall keep a complete and accurate record of the depth, thickness, and character of the different strata penetrated and when the well is completed shall transmit a copy of the record to the board [~~commission~~] by registered or certified mail.

SECTION 84.  Section 11.204, Water Code, is amended to read as follows:

Sec. 11.204.  REPORT OF NEW ARTESIAN WELL. Within one year after an artesian well is drilled, the owner or operator shall transmit to the board [~~commission~~] a sworn report stating the result of the drilling operation, the use to which the water will be applied, and the contemplated extent of the use.

SECTION 85.  Section 11.206, Water Code, is amended to read as follows:

Sec. 11.206.  IMPROPERLY CASED WELL: NUISANCE. An artesian well that is not tightly cased, capped, and furnished with mechanical appliances that readily and effectively prevent water from flowing out of the well and running over the surface of the ground above the well or wasting through the strata through which it passes is a public nuisance and subject to abatement by the executive administrator [~~director~~].

SECTION 86.  Sections 11.207(a) and (b), Water Code, are amended to read as follows:

(a)  Not later than March 1 of each year, a person who during any part of the preceding calendar year owned or operated an artesian well for any purpose other than domestic use shall file a report to the board [~~commission~~] on a form supplied by the board [~~commission~~].

(b)  The report shall state:

(1)  the quantity of water which was obtained from the well;

(2)  the nature of the uses to which the water was applied;

(3)  the change in the level of the well's water table; and

(4)  other information required by the board [~~commission~~].

SECTION 87.  Section 11.325, Water Code, is amended to read as follows:

Sec. 11.325.  WATER DIVISIONS. The board [~~commission~~] shall divide the state into water divisions for the purpose of administering adjudicated water rights. Water divisions may be created from time to time as the necessity arises. The divisions shall be constituted to secure the best protection to the holders of water rights and the most economical supervision on the part of the state.

SECTION 88.  Section 11.326, Water Code, is amended to read as follows:

Sec. 11.326.  APPOINTMENT OF WATERMASTER. (a) The executive administrator [~~director~~] may appoint one watermaster for each water division.

(b)  A watermaster holds office until a successor is appointed. The executive administrator [~~director~~] may remove a watermaster at any time.

(c)  The executive administrator [~~director~~] may employ assistant watermasters and other employees necessary to aid a watermaster in the discharge of the watermaster's [~~his~~] duties.

(d)  In a water division in which the office of watermaster is vacant, the executive administrator [~~director~~] has the powers of a watermaster.

(e)  The executive administrator [~~director~~] shall supervise and generally direct the watermaster in the performance of the watermaster's [~~his~~] duties as defined in Section 11.327. A watermaster is responsible to the executive administrator [~~director~~] for the proper performance of the watermaster's [~~his~~] duties.

(f)  A person dissatisfied with any action of a watermaster may apply to the executive administrator [~~director~~] for relief.

(g)  For a water basin in which a watermaster is not appointed, the executive administrator [~~director~~] shall:

(1)  evaluate the water basin at least once every five years to determine whether a watermaster should be appointed; and

(2)  report the findings and make recommendations to the board [~~commission~~].

(h)  The board [~~commission~~] shall:

(1)  determine the criteria or risk factors to be considered in an evaluation under Subsection (g); and

(2)  include the findings and recommendations under Subsection (g) in the board's [~~commission's~~] biennial report to the legislature.

SECTION 89.  Sections 11.3261(a), (c), (d), and (e), Water Code, are amended to read as follows:

(a)  The executive administrator [~~director~~] shall establish a watermaster advisory committee consisting of a minimum of nine members, but no more than 15 members, who are holders of water rights or representatives of holders of water rights in the water division of a watermaster. In appointing members of the advisory committee the executive administrator [~~director~~] shall consider geographic representation, amount of water rights held, different types of holders of water rights and users such as water districts, municipal suppliers, irrigators, and industrial users, and experience and knowledge in water management practices.

(c)  An advisory committee member shall serve a term of two years from the date of initial appointment by the executive administrator [~~director~~] and hold office until a successor is appointed.

(d)  The advisory committee shall meet within 30 days following initial appointment by the executive administrator [~~director~~] and elect a presiding officer who shall serve on an annual basis. Following the first meeting, the committee shall meet regularly as necessary.

(e)  The advisory committee's duties include:

(1)  providing recommendations to the executive administrator [~~director~~] regarding activities of benefit to the holders of water rights in the administration and distribution of water to holders of water rights;

(2)  review and comment to the executive administrator [~~director~~] on the annual budget of the watermaster operations; and

(3)  other duties as may be requested by the executive administrator [~~director~~] with regard to the watermaster operations or as requested by holders of water rights in a water division which the committee deems of benefit to the administration of water rights in water divisions.

SECTION 90.  Section 11.327(d), Water Code, is amended to read as follows:

(d)  A watermaster's duties shall not include activities which relate to other programs of the board [~~commission~~], except in situations of imminent threat to public health and safety or the environment.

SECTION 91.  Sections 11.3271(e), (f), (g), (h), and (i), Water Code, are amended to read as follows:

(e)  The watermaster's duties do not include activities that relate to other programs of the board [~~commission~~], except as provided by this section. The watermaster's duties shall include activities that relate to situations of imminent threat to public health and safety or the environment. The board [~~commission~~] shall adopt rules:

(1)  defining situations of imminent threat under this section; and

(2)  addressing the watermaster's duties in response to terrorism.

(f)  The watermaster may store in a reservoir for release at a later time water in transit that is being conveyed down the banks and bed of the Rio Grande under a permit issued by the board [~~commission~~] and in accordance with rules prescribed by the board [~~commission~~]. In this section, "water in transit" means privately owned water, not including state water, that a person has pumped from an underground reservoir and that is in transit between the point of discharge into the river and the place of use or the point of diversion by a person who has contracted with the owner of the water to purchase the water. The contract must specify that the contract is for the purchase and delivery of a specified amount of water less the carriage losses incurred in transit, as described and measured according to board [~~commission~~] rules.

(g)  The watermaster may store water under Subsection (f) only if the storage does not hinder the ability of any other holders of Rio Grande surface water rights to store the maximum authorized capacity in a reservoir as specified by board [~~commission~~] rules and relevant permits, certified filings, or certificates of adjudication.

(h)  Before granting a permit to convey water down the banks and bed of the Rio Grande, the board [~~commission~~] shall adopt rules that provide for the methods and procedures by which the watermaster shall account for any discharge, delivery, conveyance, storage, diversion, or associated loss of water conveyed down the banks and bed of the Rio Grande. A permit to convey water down the banks and bed of the Rio Grande may not allow the permit holder to share in any beneficial state water inflows into the Rio Grande. The permit holder is entitled to convey only the amount of water specified in the permit, less the carriage losses incurred in transit, as described and measured according to board [~~commission~~] rules. A rule adopted by the board [~~commission~~] under this subsection must be consistent with the Treaty Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United States and the United Mexican States on February 3, 1944, and with any minute order adopted by the International Boundary and Water Commission.

(i)  In considering an application for a permit to convey water down the banks and bed of the Rio Grande, the board [~~commission~~] shall consider the quality of the water to be conveyed. The board [~~commission~~] may not issue a permit if it determines that the water to be conveyed would degrade the water quality of the Rio Grande.

SECTION 92.  Section 11.3271(j), Water Code, as added by Chapter 385 (S.B. 1902), Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(j)  Notwithstanding any other law, the watermaster is the official recorder for all instruments, including deeds, deeds of trust, financing statements, security agreements, and liens, that the board [~~commission~~] authorizes or requires to be filed in connection with water rights relating to water in the lower, middle, or upper basin of the Rio Grande that are subject to a permit, certified filing, or certificate of adjudication. An instrument shall be filed with the watermaster under this subsection in the same manner as required by other law for the same type of instrument. The filing of an instrument under this subsection results in the same legal and administrative status and consequences as a filing under other law for the same type of instrument. An instrument filed under this subsection shall be construed by a court, financial institution, or other affected person in the same manner as an instrument of the same type that is filed under other law. The watermaster may charge and collect a fee for the recordation of instruments under this subsection in the same amount as the fee collected by the county clerk of Cameron County for the recordation of similar instruments. The board [~~commission~~] by rule shall prescribe the procedures necessary for the proper implementation of this subsection, including reasonable transition provisions, if appropriate.

SECTION 93.  Sections 11.329(a), (b), (c), (f), and (g), Water Code, are amended to read as follows:

(a)  The board [~~commission~~] shall pay the compensation and necessary expenses of a watermaster, assistant watermasters, and other necessary employees, but the holders of water rights that have been determined or adjudicated and are to be administered by the watermaster shall reimburse the board [~~commission~~] for the compensation and expenses. Necessary expenses shall be limited to costs associated with streamflow measurement and monitoring, water accounting, assessment billing and collection associated with a watermaster's operation, and other duties a watermaster may be required to perform under this subchapter.

(b)  After the adjudication decree becomes final, and each fiscal year thereafter, the executive administrator [~~director~~] shall provide notice to each holder of water rights under the decree, at least 30 days prior to the board's [~~commission's~~] holding a public hearing as provided in Subsection (c), of the proposed budget for their watermaster operations showing the amount of compensation and expenses that will be required annually for the administration of the water rights so determined. This budget shall be furnished to the watermaster advisory committee for comment at least 30 days prior to notification to each holder of water rights.

(c)  The board [~~commission~~] shall hold a public hearing on the proposed fiscal year budget for each watermaster operation. The board [~~commission~~] shall determine the apportionment of the costs of administration of adjudicated water rights among the holders of the rights. After a public hearing, the board [~~commission~~] shall issue an order assessing the annual cost against the holders of water rights to whom the water will be distributed under the final decree. The board [~~commission~~] shall equitably apportion the costs. The executive administrator [~~director~~] may provide for payments in installments and shall specify the dates by which payments shall be made to the board [~~commission~~]. At the request of the watermaster advisory committee the board [~~commission~~] may modify a fiscal year budget for any water division.

(f)  An order of the board [~~commission~~] assessing costs remains in effect until the board [~~commission~~] issues a further order. The board [~~commission~~] may modify, revoke, or supersede an order assessing costs with a subsequent order. The board [~~commission~~] may issue supplementary orders from time to time to apply to new diversions.

(g)  The board [~~commission~~] may not assess costs under this section against a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts or against a holder of a water right placed in the Texas Water Trust for a term of at least 20 years.

SECTION 94.  Section 11.329(d), Water Code, as amended by Chapters 333 (H.B. 3231) and 696 (S.B. 1406), Acts of the 75th Legislature, Regular Session, 1997, is reenacted and amended to read as follows:

(d)  The executive administrator [~~director~~] shall collect the assessments and shall account for assessments separately for each water division and shall deposit assessments collected to a special fund known as the watermaster fund established and governed by Section 11.3291.

SECTION 95.  Sections 11.3291(a), (b), (d), and (e), Water Code, are amended to read as follows:

(a)  The watermaster fund is created as a special fund in the state treasury and shall be administered by the board [~~commission~~] under this subchapter and rules adopted by the board [~~commission~~].

(b)  The legislature hereby appropriates without further legislative action any funds deposited in the watermaster [~~watermaster's~~] fund as provided in this subchapter. The watermaster fund shall be used:

(1)  to pay the compensation and expenses of the watermaster in each water division;

(2)  to pay expenditures for equipment, facilities, and capital expenditures necessary to the watermaster operation when recommended by the watermaster advisory committee and the executive administrator [~~director~~] and approved by the board [~~commission~~] when hearings are required as provided in Section 11.329; and

(3)  to pay into the general revenue fund for use without further appropriation for purposes of providing overhead and administrative expenses of the board [~~commission~~] in an amount not greater than 10 percent times the approved annual budget under this subchapter in a water division. Any amounts not used in one fiscal year shall be carried over and used for the following fiscal year's operational expenses of the watermaster.

(d)  The watermaster fund shall consist of:

(1)  fees collected in each water division;

(2)  money from gifts, grants, or donations to the fund for designated or general lawful use; and

(3)  money from any other source designated by the legislature or the board [~~commission~~].

(e)  The board [~~commission~~] may invest, reinvest, and direct the investment of any available money in the fund as provided by law for the investment of money under Section 404.024, Government Code.

SECTION 96.  Section 11.330, Water Code, is amended to read as follows:

Sec. 11.330.  OUTLET FOR FREE PASSAGE OF WATER. The owner of any works for the diversion or storage of water shall maintain a substantial headgate at the point of diversion, or a gate on each discharge pipe of a pumping plant, constructed so that it can be locked at the proper place by the watermaster, or a suitable outlet in a dam to allow the free passage of water that the owner of the dam is not entitled to divert or impound. The board [~~commission~~] shall adopt rules, and the executive administrator [~~director~~] shall enforce the rules, governing the type and location of the headgates or gates and the outlets to allow the free passage of water.

SECTION 97.  Section 11.331, Water Code, is amended to read as follows:

Sec. 11.331.  MEASURING DEVICES. The board [~~commission~~], by rule, may require the owner of any works for the diversion, taking, storage, or distribution of water to construct and maintain suitable measuring devices at points that will enable the watermaster to determine the quantities of water to be diverted, taken, stored, released, or distributed in order to satisfy the rights of the respective users.

SECTION 98.  Section 11.332, Water Code, is amended to read as follows:

Sec. 11.332.  INSTALLATION OF FLUMES. The board [~~commission~~], by rule, may require flumes to be installed along the line of any ditch if necessary for the protection of water rights or other property.

SECTION 99.  Section 11.333, Water Code, is amended to read as follows:

Sec. 11.333.  FAILURE TO COMPLY WITH BOARD [~~COMMISSION~~] RULES. If the owner of waterworks using state water refuses or neglects to comply with the rules adopted pursuant to Section 11.330, 11.331, or 11.332 [~~of this code~~], the executive administrator [~~director~~], after 10 days' [~~days~~] notice or after a period of additional time that is reasonable under the circumstances, may direct the watermaster to make adjustments of the control works to prevent the owner of the works from diverting, taking, storing, or distributing any water until the owner [~~he~~] has fully complied with the rules.

SECTION 100.  Section 11.334, Water Code, is amended to read as follows:

Sec. 11.334.  SUIT AGAINST BOARD [~~COMMISSION~~] FOR INJURY. Any person who is injured by an act of the board [~~commission~~] under this subchapter may bring suit against the board [~~commission~~] to review the action or to obtain an injunction. If the water right involved has been adjudicated as provided in this subchapter as it previously existed, the court shall issue an injunction only if it is shown that the board [~~commission~~] has failed to carry into effect the decree adjudicating the water right.

SECTION 101.  Sections 11.335(a) and (c), Water Code, are amended to read as follows:

(a)  If any area in which water rights of record in the office of the board [~~commission~~] have not been adjudicated, the claimants of the rights and the board [~~commission~~] may enter into a written agreement for their administration.

(c)  An agreement to administer unadjudicated water rights shall be recorded in the offices of the board [~~commission~~] and of the county clerk of each county in which any of the works or lands affected by the agreement are located.

SECTION 102.  Section 11.336, Water Code, is amended to read as follows:

Sec. 11.336.  ADMINISTRATION OF PERMITS ISSUED AFTER ADJUDICATION. Permits, other than temporary permits, that are issued by the board [~~commission~~] to appropriate water from an adjudicated stream or segment are subject to administration in the same manner as is provided in this subchapter for adjudicated water rights.

SECTION 103.  Section 11.337, Water Code, is amended to read as follows:

Sec. 11.337.  HEARINGS: NOTICE AND PROCEDURE. (a) The board [~~commission~~] shall give notice of a hearing or other proceeding it orders under this subchapter in the manner prescribed in the procedural rules of the board [~~commission~~], unless this subchapter specifically provides otherwise.

(b)  In any proceeding in any part of the state, the board [~~commission~~] may:

(1)  take evidence, including the testimony of witnesses;

(2)  administer oaths;

(3)  issue subpoenas and compel the attendance of witnesses in the same manner as subpoenas are issued out of the courts of the state;

(4)  compel witnesses to testify and give evidence; and

(5)  order the taking of depositions and issue commissions for the taking of depositions in the same manner as depositions are obtained in civil actions.

(c)  Evidence may be taken by a duly appointed reporter before the board [~~commission~~] or before an authorized representative who has the power to administer oaths.

(d)  If a person neglects or refuses to comply with an order or subpoena issued by the board [~~commission~~] or refuses to testify on any matter about which the person [~~he~~] may be lawfully interrogated, the board [~~commission~~] may apply to a district court of the county in which the proceeding is held to punish the person [~~him~~] in the manner provided by law for such disobedience in civil actions.

(e)  The board [~~commission~~] may adjourn its proceedings from time to time and from place to place.

(f)  When a proceeding before the board [~~commission~~] is concluded, the board [~~commission~~] shall render a decision as to the matters concerning which the proceeding was held.

SECTION 104.  Section 11.338, Water Code, is amended to read as follows:

Sec. 11.338.  CANCELLATION OF WATER RIGHTS. Nothing in this subchapter recognizes any abandoned or cancelled water right or impairs in any way the power of the board [~~commission~~] under general law to forfeit, cancel, or find abandoned any water right, including adjudicated water rights.

SECTION 105.  Section 11.340(a), Water Code, is amended to read as follows:

(a)  Nothing in this subchapter prevents or precludes a person who claims the right to divert water from a stream from filing and prosecuting to a conclusion a suit against other claimants of the right to divert or use water from the same stream. However, if the board [~~commission~~] has ordered a determination of water rights as provided in this subchapter or if the board [~~commission~~] orders such a determination within 90 days after notice of the filing of a suit, the suit shall be abated on the motion of the board [~~commission~~] or any party in interest as to any issues involved in the water rights determination.

SECTION 106.  The heading to Subchapter I, Chapter 11, Water Code, is amended to read as follows:

SUBCHAPTER I. BOARD-APPOINTED [~~COMMISSION-APPOINTED~~] WATERMASTER

SECTION 107.  Section 11.451, Water Code, is amended to read as follows:

Sec. 11.451.  BOARD [~~COMMISSION~~] AUTHORITY. On petition of 25 or more holders of water rights in a river basin or segment of a river basin or on its own motion the board [~~commission~~] may authorize the executive administrator [~~director~~] to appoint a watermaster for a river basin or segment of a river basin if the board [~~commission~~] finds that the rights of senior water rights holders in the basin or segment of the basin are threatened.

SECTION 108.  Section 11.452, Water Code, is amended to read as follows:

Sec. 11.452.  PROCEDURE FOR DETERMINATION. (a) On receiving a petition for appointment of a watermaster or on its own motion, the board [~~commission~~] shall call and hold a hearing to determine if a need exists for appointment of a watermaster for the river basin or segment of the river basin.

(b)  At the hearing persons who hold water rights in the river basin or segment of the river basin may appear before the board [~~commission~~] and submit testimony and evidence relating to the need for appointment of a watermaster.

(c)  After the hearing, the board [~~commission~~] shall make a written determination as to whether a threat exists to the rights of senior water rights holders in the river basin or segment of the river basin and shall issue an order either finding that a threat exists and directing appointment of a watermaster or denying appointment of a watermaster.

SECTION 109.  Sections 11.453(a), (c), (d), (e), (f), and (g), Water Code, are amended to read as follows:

(a)  On issuance of an order under Section 11.452 [~~of this chapter~~] directing appointment of a watermaster, the executive administrator [~~director~~] shall appoint a watermaster for the river basin or segment of the river basin covered by the board [~~commission~~] order.

(c)  A watermaster holds office until a successor is appointed. The executive administrator [~~director~~] may remove a watermaster at any time.

(d)  The executive administrator [~~director~~] may employ assistant watermasters and other employees necessary to aid a watermaster in the discharge of the watermaster's [~~his~~] duties.

(e)  In a segment or basin in which the office of watermaster is vacant, the executive administrator [~~director~~] has the powers of a watermaster.

(f)  The executive administrator [~~director~~] shall supervise and generally direct the watermaster in the performance of the watermaster's [~~his~~] duties. A watermaster is responsible to the executive administrator [~~director~~] for the proper performance of the watermaster's [~~his~~] duties.

(g)  A person dissatisfied with any action of a watermaster may apply to the executive administrator [~~director~~] for relief.

SECTION 110.  Sections 11.4531(a) and (e), Water Code, are amended to read as follows:

(a)  For each river basin or segment of a river basin for which the executive administrator [~~director~~] appoints a watermaster under this subchapter, the executive administrator [~~director~~] shall appoint a watermaster advisory committee consisting of at least nine but not more than 15 members. A member of the advisory committee must be a holder of a water right or a representative of a holder of a water right in the river basin or segment of the river basin for which the watermaster is appointed. In appointing members to the advisory committee, the executive administrator [~~director~~] shall consider:

(1)  geographic representation;

(2)  amount of water rights held;

(3)  different types of holders of water rights and users, including water districts, municipal suppliers, irrigators, and industrial users; and

(4)  experience and knowledge of water management practices.

(e)  The advisory committee shall:

(1)  make recommendations to the executive administrator [~~director~~] regarding activities of benefit to the holders of water rights in the administration and distribution of water to holders of water rights in the river basin or segment of the river basin for which the watermaster is appointed;

(2)  review and comment to the executive administrator [~~director~~] on the annual budget of the watermaster operation; and

(3)  perform other advisory duties as requested by the executive administrator [~~director~~] regarding the watermaster operation or as requested by holders of water rights and considered by the committee to benefit the administration of water rights in the river basin or segment of the river basin for which the watermaster is appointed.

SECTION 111.  Section 11.455(b), Water Code, is amended to read as follows:

(b)  The executive administrator [~~director~~] shall deposit the assessments collected under this section to the credit of the watermaster fund.

SECTION 112.  Section 11.456, Water Code, is amended to read as follows:

Sec. 11.456.  MAINTAINING CURRENT STATUS. (a) To protect water rights holders in a river basin or segment of a river basin during the proceedings under Section 11.452 [~~of this code~~], the board [~~commission~~] may issue an order or orders at the beginning of the proceedings under Section 11.452 [~~of this code~~] or may request the attorney general to seek injunctive relief to protect the water rights holders during the proceedings.

(b)  On request of the board [~~commission~~], the attorney general shall seek injunctive relief to carry out the purpose of Subsection (a) [~~of this section~~].

(c)  The board [~~commission~~] is not required to comply with the requirements of Chapter 2001, Government Code, in issuing orders under Subsection (a) [~~of this section~~] and there is no right of appeal from those orders.

SECTION 113.  Section 11.457, Water Code, is amended to read as follows:

Sec. 11.457.  ASSISTANCE TO WATERMASTER. The executive administrator [~~director~~] shall provide the watermaster with such staff and facilities as are necessary to carry out this subchapter.

SECTION 114.  Section 11.551(3), Water Code, is amended to read as follows:

(3)  "Program" means the Concho River Watermaster Program, a division of the South Texas Watermaster established by the commission [~~Texas Commission on Environmental Quality~~] and operating pursuant to rules and regulations promulgated by the board [~~Texas Commission on Environmental Quality~~].

SECTION 115.  Section 11.556(a), Water Code, is amended to read as follows:

(a)  The executive administrator [~~director~~] shall appoint a person who resides in the area described by Section 11.553 to the South Texas Watermaster Advisory Committee.

SECTION 116.  Sections 11.557(a), (b), and (c), Water Code, are amended to read as follows:

(a)  The Concho River Watermaster Advisory Committee consists of 13 members appointed by the executive administrator [~~director~~] as follows:

(1)  six members selected from nominations received, one representing the City of Paint Rock and one representing each of the following stream segments or tributaries of the Concho River: Spring Creek, Dove Creek, South Concho, Middle Concho, and main stem of the Concho below Certificate of Adjudication No. 14-1337 (River Order No. 5460010000);

(2)  six members selected from a list of candidates submitted by the City of San Angelo; and

(3)  one member selected at the executive administrator's [~~director's~~] discretion.

(b)  If the executive administrator [~~director~~] does not receive nominations or a list of candidates as specified under Subsection (a), after reasonable notice the executive administrator [~~director~~] may appoint to the advisory committee the appropriate number of members selected at the executive administrator's [~~director's~~] discretion.

(c)  If a vacancy occurs on the advisory committee, the executive administrator [~~director~~] shall fill the vacancy for the unexpired term by appointing a person selected in the same manner as the person being replaced.

SECTION 117.  Section 11.561, Water Code, is amended to read as follows:

Sec. 11.561.  APPLICABILITY OF OTHER LAW AND BOARD [~~COMMISSION~~] RULES. A provision of this code or a rule adopted by the board [~~commission~~] that relates to watermasters and does not conflict with the provisions of this subchapter applies to the program established under this subchapter.

SECTION 118.  Section 12.011, Water Code, is amended to read as follows:

Sec. 12.011.  PERMIT APPLICATIONS. The board [~~commission~~] shall receive, administer, and act on all applications for permits and permit amendments:

(1)  to appropriate public water for beneficial use or storage; or

(2)  to construct works for the impoundment, storage, diversion, or transportation of public water.

SECTION 119.  Section 12.012, Water Code, is amended to read as follows:

Sec. 12.012.  EVALUATION OF OUTSTANDING PERMITS. The board [~~commission~~] shall actively and continually evaluate outstanding permits and certified filings and shall carry out measures to cancel wholly or partially the certified filings and permits that are subject to cancellation.

SECTION 120.  Section 12.014, Water Code, is amended to read as follows:

Sec. 12.014.  USE OF BOARD [~~COMMISSION~~] SURVEYS; POLICY. The board [~~commission~~] shall make use of surveys, studies, and investigations conducted by the staff of the board [~~commission~~] in order to ascertain the character of the principal requirements of the district regional division of the watershed areas of the state for beneficial uses of water, to the end that distribution of the right to take and use state water may be more equitably administered in the public interest, that privileges granted for recognized uses may be economically coordinated so as to achieve the maximum of public value from the state's water resources, and that the distinct regional necessities for water control and conservation and for control of harmful floods may be recognized.

SECTION 121.  Section 12.017, Water Code, is amended to read as follows:

Sec. 12.017.  POWER TO ENTER LAND. Any member or employee of the commission or the board may enter any person's land, natural waterway, or artificial waterway for the purpose of making an investigation that would, in the judgment of the executive director or the executive administrator, as applicable, assist the commission or the board, as applicable, in the discharge of its duties.

SECTION 122.  Section 12.051(e), Water Code, is amended to read as follows:

(e)  In determining feasibility, the board shall consider, among other relevant factors:

(1)  the effect of the federal project on water users on the stream as certified by the board [~~commission~~];

(2)  the public interest to be served;

(3)  the development of damsites to the optimum potential for water conservation;

(4)  the integration of the federal project with other water conservation activities;

(5)  the protection of the state's interests in its water resources; and

(6)  the engineering practicality of the federal project, including cost of construction, operation, and maintenance.

SECTION 123.  Subchapter E, Chapter 12, Water Code, is amended by adding Section 12.111 to read as follows:

Sec. 12.111.  FEES. (a) The executive administrator shall charge and collect the fees prescribed by law. The executive administrator shall make a record of fees prescribed when due and shall render an account to the person charged with the fees. Each fee is a separate charge and is in addition to other fees unless provided otherwise. Except as otherwise provided, a fee assessed and collected under this section shall be deposited to the credit of the water resource management account.

(b)  Notwithstanding other provisions, the board by rule may establish due dates, schedules, and procedures for assessment, collection, and remittance of fees due the board to ensure the cost-effective administration of revenue collection and cash management programs.

(c)  Notwithstanding other provisions, the board by rule shall establish uniform and consistent requirements for the assessment of penalties and interest for late payment of fees owed the state under the board's jurisdiction. Penalties and interest established under this section may not exceed rates established for delinquent taxes under Sections 111.060 and 111.061, Tax Code.

(d)  Except as otherwise provided by law, the fee for filing an application or petition is $100 plus the cost of any required notice.

(e)  The fee for filing a water permit application is $100 plus the cost of required notice.

(f)  The fee for filing an application for fixing or adjusting rates is $100 plus the cost of required notice.

(g)  The fee for recording an instrument in the office of the board is $1.25 per page.

(h)  The fee for the use of water for irrigation is 50 cents per acre to be irrigated.

(i)  The fee for impounding water, except under Section 11.142, is 50 cents per acre-foot of storage, based on the total holding capacity of the reservoir at normal operating level.

(j)  The fee for other uses of water not specifically named in this section is $1 per acre-foot, except that a political subdivision may not be required to pay fees to use water for recharge of underground freshwater-bearing sands and aquifers or for abatement of natural pollution. A fee is not required for a water right that is deposited into the Texas Water Trust.

(k)  A fee charged under Subsections (h) through (j) for one use of water under a permit from the board may not exceed $50,000. The fee for each additional use of water under a permit for which the maximum fee is paid may not exceed $10,000.

(l)  The fees prescribed by Subsections (h) through (j) are one-time fees, payable when the application for an appropriation is made. However, if the total fee for a permit exceeds $1,000, the applicant shall pay one-half of the fee when the application is filed and one-half within 180 days after notice is mailed to the applicant that the permit is granted. If the applicant does not pay all of the amount owed before beginning to use water under the permit, the permit is annulled.

(m)  If a permit is annulled, the matter reverts to the status of a pending, filed application and, on the payment of use fees as provided by Subsections (h) through (l) together with sufficient postage fees for mailing notice of hearing, the board shall set the application for hearing and proceed as provided by this code.

(n)  A fee imposed under Subsection (j) for the use of saline tidal water for industrial processes is $1 per acre-foot of water diverted for the industrial process, not to exceed a total fee of $5,000.

(o)  Notwithstanding any other law, fees collected for deposit to the water resource management account under the following statutes may be appropriated and used to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under:

(1)  Subsections (d) and (e), to the extent those fees are collected in connection with water use permits;

(2)  Subsections (h) through (l);

(3)  Section 11.138(g); and

(4)  Section 11.145.

SECTION 124.  Section 12.113, Water Code, is amended to read as follows:

Sec. 12.113.  DISPOSITION OF FEES, ETC. (a) The commission or board, as applicable, shall immediately deposit in the State Treasury the fees and charges it collects.

(b)  The board [~~commission~~] shall deposit all costs collected under Subchapter G, Chapter 11, [~~of this code~~] in the State Treasury to the credit of the watermaster administration account, from which the board [~~commission~~] shall pay all expenses necessary to efficiently administer and perform the duties described in Sections 11.325 through 11.335 [~~of this code~~].

SECTION 125.  Section 12.114, Water Code, is amended to read as follows:

Sec. 12.114.  DISPOSITION OF FEES PENDING DETERMINATION. The commission or board, as applicable, shall hold all fees, except filing fees, which are paid with an application until the commission or board, as applicable, finally determines whether the application should be granted. If the application is not granted, the commission or board, as applicable, shall return the fees to the applicant.

SECTION 126.  Subchapter E, Chapter 12, Water Code, is amended by adding Section 12.115 to read as follows:

Sec. 12.115.  FEES FOR GROUNDWATER STUDIES AND DETERMINATIONS. (a) A person who sells wholesale surface water or groundwater, for uses other than domestic or livestock use, shall annually report to the board the number of acre-feet sold. The board may create forms for the reports.

(b)  Retail and wholesale water supplies may include the fees from this section in their cost of service. A person described by Subsection (a) shall pay the board a fee to be set by the board, not to exceed $1.60 per acre-foot sold, for:

(1)  wholesale water sold in a year, measured from September 1 through August 31 of the following year; and

(2)  water sold in a water market subject to Chapter 14.

(c)  The board shall use a fee collected under this section to fund the scientific studies and duties required by Section 16.012 and to operate groundwater management authorities.

(d)  The reports and fees required by this section are due not later than October 1 of each year, from sales that occurred from September 1 of the previous calendar year through August 31 of the current calendar year.

SECTION 127.  Section 13.144, Water Code, is amended to read as follows:

Sec. 13.144.  NOTICE OF WHOLESALE WATER SUPPLY CONTRACT. A district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a retail public utility, a wholesale water service, or other person providing a retail public utility with a wholesale water supply shall provide the utility commission, the board, and the commission with a certified copy of any wholesale water supply contract with a retail public utility within 30 days after the date of the execution of the contract. The submission must include the amount of water being supplied, term of the contract, consideration being given for the water, purpose of use, location of use, source of supply, point of delivery, limitations on the reuse of water, a disclosure of any affiliated interest between the parties to the contract, and any other condition or agreement relating to the contract.

SECTION 128.  Section 13.148, Water Code, as added by Chapter 234 (H.B. 252), Acts of the 83rd Legislature, Regular Session, 2013, is amended to read as follows:

Sec. 13.148.  WATER SHORTAGE REPORT. (a) A retail public utility and each entity from which the utility is obtaining wholesale water service for the utility's retail system shall notify the commission and the board when the utility or entity is reasonably certain that the water supply will be available for less than 180 days.

(b)  The commission shall adopt rules to implement this section and prescribe the form and content of notice required under this section.

SECTION 129.  Section 13.381, Water Code, is amended to read as follows:

Sec. 13.381.  RIGHT TO JUDICIAL REVIEW; EVIDENCE. Any party to a proceeding before the utility commission, the board, or the commission is entitled to judicial review under the substantial evidence rule.

SECTION 130.  Subtitle B, Title 2, Water Code, is amended by adding Chapter 14 to read as follows:

CHAPTER 14. WATER MARKETS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 14.001.  DECLARATION OF POLICY. The state shall develop, maintain, and make available to governmental and private sector decision-makers, world class scientific modeling, monitoring, and forecasting data for surface water and groundwater availability in a manner that optimizes economic, social, and environmental outcomes. The state's policy is to monetize surface water and groundwater through water trading free markets that establish true market value. Water shall be freely transported across the state without unjustified governmental regulation, other than regulation necessary to conserve the state's natural and ecological resources, and to ensure environmental sustainability.

Sec. 14.002.  DEFINITIONS. In this chapter:

(1)  "Board" means the Texas Water Development Board.

(2)  "Commission" means the Texas Commission on Environmental Quality.

(3)  "Market" means a system for buying, selling, and trading rights to water.

(4)  "Railroad commission" means the Railroad Commission of Texas.

(5)  "Retail public utility" has the meaning assigned by Section 13.002.

SUBCHAPTER B. WATER MARKETS AND CONSERVATION MEASURES

Sec. 14.021.  STATEMENT OF POLICY. (a) It is the policy of this state, to the fullest extent possible, to promote and encourage private capital and resources to be invested, including in public-private partnerships, to develop water, including the construction of reservoirs, pipelines, treatment facilities, aquifer recharge facilities, desalination facilities, and other water development assets or technologies.

(b)  The commission is encouraged to promptly review new technologies for water development, treatment, and transportation.

Sec. 14.022.  MARKETS. (a) The board shall administer water markets for surface water and groundwater in the state.

(b)  The board may contract with third parties to administer one or more markets.

Sec. 14.023.  PRIVATELY FUNDED PROJECTS. (a) Notwithstanding any other provision of this code, for a water development project that is fully or partially funded by private capital, an agency or political subdivision may not require the project to be listed on the state water plan or approved by a regional planning group as a condition to receive a permit or other authorization for the use of water.

(b)  A political subdivision, public water supply corporation, district, or authority may enter into an agreement with one or more private entities to develop water and wastewater projects, including agreements in which one or more private entities own or operate water or wastewater development, transportation, treatment, processing, distribution, or collection facilities.

Sec. 14.024.  RECYCLING FRACKING WATERS. A contract entered into between landowners and oil and gas exploration companies may not require the use of non-brackish water for fracking and other oil and gas exploration.

Sec. 14.025.  CONSERVATION PRICING. A retail public utility shall, for its retail water rates, adopt a progressive pricing scheme to encourage water conservation.

Sec. 14.026.  SMALLER RETAIL WATER UTILITIES. A wholesale water provider that supplies a retail public utility that provides potable water service to a customer base of 100,000 or fewer customers shall offer that retail public utility a renewal of its wholesale water contract for a period of not less than 20 years. The wholesale water provider may not increase the water rates charged to the retail utility by more than 20 percent of the previous year's rates of the expiring contract for the first five years of the new contract, and, after the first five years may not increase the rate charged by more than 20 percent for each subsequent five-year period.

SECTION 131.  Section 15.326, Water Code, is amended to read as follows:

Sec. 15.326.  PREFERENCES. The board shall give political subdivisions a preferential right, but not an exclusive right, to purchase, acquire, or lease facilities and to purchase water from facilities. Preferences shall be given in these respects in accord with the provisions of Section 11.123 [~~of this code. The board and the commission shall coordinate their efforts to meet these objectives and to assure that the public water of this state, which is held in trust for the use and benefit of the public, will be conserved, developed, and utilized in the greatest practicable measure for the public welfare~~].

SECTION 132.  Section 15.7031(c), Water Code, is amended to read as follows:

(c)  The dedication of any water rights placed in trust must be reviewed and approved by the board [~~commission~~], in consultation with the commission [~~board~~] and the Parks and Wildlife Department. In addition, the Department of Agriculture may provide input to the board [~~commission~~], as appropriate, during the review and approval process for dedication of water rights.

SECTION 133.  Sections 15.704(a) and (b), Water Code, are amended to read as follows:

(a)  A water right may be deposited in the water bank for an initial term of up to 10 years, unless otherwise held in the Texas Water Trust as established under Section 15.7031 [~~of this code~~], during which time the water right is exempt from cancellation by the board [~~commission~~] under the terms of Subchapter E of Chapter 11 [~~of this code~~]. A water right is exempt from cancellation under this subsection only once even if it has been transferred or redeposited.

(b)  The board [~~commission~~] may not bring a cancellation action under Subchapter E of Chapter 11 [~~of this code~~] for a 10-year period following board [~~commission~~] approval of any necessary actions relating to a water right which has been transferred while on deposit in the water bank.

SECTION 134.  Section 15.706, Water Code, is amended to read as follows:

Sec. 15.706.  REPORTS. The [~~commission and the~~] board shall provide ready access by the commission [~~other agency~~] through manual or computer capabilities to all water rights permits, final water rights decisions, applications, amendments, contracts, computerized files, computer programs, and other information related to water rights and to the operation of the water bank. The board [~~commission~~] shall provide the commission [~~board~~] with all notices of proposed water rights actions.

SECTION 135.  Sections 16.012(b), (c), (g), (h), (i), (j), (k), (l), and (m), Water Code, are amended to read as follows:

(b)  The executive administrator shall:

(1)  determine suitable locations for future water facilities, including reservoir sites;

(2)  determine suitable, cost-effective water supply alternatives on a regional basis, including voluntary means of encouraging aggressive water conservation;

(3)  locate land best suited for irrigation;

(4)  make estimates of the cost of proposed irrigation works and the improvement of reservoir sites;

(5)  examine and survey reservoir sites;

(6)  monitor the effects of fresh water inflows upon the bays and estuaries of Texas;

(7)  monitor instream flows;

(8)  lead a statewide effort, in coordination with federal, state, and local governments, institutions of higher education, and other interested parties, to develop a network for collecting and disseminating water resource-related information that is sufficient to support assessment of ambient water conditions statewide;

(9)  make recommendations for optimizing the efficiency and effectiveness of water resource data collection and dissemination as necessary to ensure that basic water resource data are maintained and available for Texas; [~~and~~]

(10)  make basic data and summary information developed under this subsection accessible to state agencies and other interested persons; and

(11)  assist groundwater management authorities in developing desired future conditions and groundwater availability for the aquifers of this state.

(c)  In performing the duties required under Subdivisions (1), (4), (5), (6), and (7) of Subsection (b), the executive administrator shall consider advice from the Parks and Wildlife Department and the commission. In addition, the Department of Agriculture may provide advice to the executive administrator, where appropriate, regarding any of the duties to be performed under Subsection (b).

(g)  The board [~~No later than December 31, 1999, the commission~~] shall maintain a [~~obtain or develop an updated~~] water availability model for each [~~six~~] river basin in this state and shall update the models as the board determines necessary [~~basins as determined by the commission. The commission shall obtain or develop an updated water availability model for all remaining river basins no later than December 31, 2001~~].

(h)  [~~Not later than December 31, 2003, the commission shall obtain or develop an updated water supply model for the Rio Grande.~~] Recognizing that the Rio Grande is an international river touching on three states of the United States and five states of the United Mexican States and draining an area larger than the State of Texas, the model for the Rio Grande basin shall encompass to the extent practicable the significant water demands within the watershed of the river as well as the unique geology and hydrology of the region. The board [~~commission~~] may collect data from all jurisdictions that allocate the waters of the river, including jurisdictions outside this state.

(i)  Within 90 days of completing a water availability model for a river basin, the board [~~commission~~] shall provide to all holders of existing permits, certified filings, and certificates of adjudication in that river basin the projected amount of water that would be available during a drought of record, for the subsequent calendar quarter.

(j)  Within 90 days of completing a water availability model for a river basin, the board [~~commission~~] shall provide to each regional water planning group created under Section 16.053 [~~of this code~~] in that river basin the projected amount of water that would be available if cancellation procedures were instigated under the provisions of Subchapter E, Chapter 11[~~, of this code~~].

(k)  Within 90 days of completing a water availability model for a river basin, the board [~~commission~~], in coordination with the Parks and Wildlife Department and with input from the Department of Agriculture and the commission, where appropriate, shall determine the potential impact of reusing municipal and industrial effluent on existing water rights, instream uses, and freshwater inflows to bays and estuaries. Within 30 days of making this determination, the board [~~commission~~] shall provide the projections to the commission [~~board~~] and each regional water planning group created under Section 16.053 [~~of this code~~] in that river basin.

(l)  The executive administrator shall obtain or develop groundwater availability models for major and minor aquifers in coordination with groundwater management authorities, groundwater conservation districts, and regional water planning groups created under Section 16.053 that overlie the aquifers. [~~Modeling of major aquifers shall be completed not later than October 1, 2004.~~] On completing a groundwater availability model for an aquifer, the executive administrator shall provide the model to each groundwater management authority, groundwater conservation district, and each regional water planning group created under Section 16.053 overlying that aquifer.

(m)  The executive administrator may conduct surveys of entities using groundwater and surface water for municipal, industrial, power generation, or mining purposes at intervals determined appropriate by the executive administrator to gather data to be used for long-term water supply planning. Recipients of the survey shall complete and return the survey to the executive administrator. A person who fails to timely complete and return the survey is not eligible for funding from the board for board programs and is ineligible to obtain permits, permit amendments, or permit renewals from the board [~~commission~~] under Chapter 11. A person who fails to complete and return the survey commits an offense that is punishable as a Class C misdemeanor. This subsection does not apply to survey information regarding windmills used for domestic and livestock use.

SECTION 136.  Sections 16.053(c), (e), (p), (p-2), (p-3), and (p-4), Water Code, are amended to read as follows:

(c)  No later than 60 days after the designation of the regions under Subsection (b), the board shall designate representatives within each regional water planning area to serve as the initial coordinating body for planning. The initial coordinating body may then designate additional representatives to serve on the regional water planning group. The initial coordinating body shall designate additional representatives if necessary to ensure adequate representation from the interests comprising that region, including the public, counties, municipalities, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, river authorities, water districts, and water utilities. The regional water planning group shall maintain adequate representation from those interests. In addition, the groundwater conservation districts located in [~~each management area, as defined by Section 36.001, located in~~] the regional water planning area shall appoint one representative of a groundwater conservation district located in the [~~management area and in the~~] regional water planning area to serve on the regional water planning group. In addition, one representative from each groundwater management authority located in the regional planning group shall serve on the regional planning group. In addition, representatives of the board, the Parks and Wildlife Department, the Department of Agriculture, and the State Soil and Water Conservation Board shall serve as ex officio members of each regional water planning group.

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

(3)  identifies:

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

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

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

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

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

(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 management authority [~~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;

(H) [~~(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

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

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

(ii)  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, necessary to meet the state's projected water demands.

(p)  If a groundwater management authority [~~conservation district~~] files a petition with the development board stating that a conflict requiring resolution may exist between the authority's [~~district's~~] approved management plan developed under Section 36.1071 and an approved state water plan, the development board shall provide technical assistance to and facilitate coordination between the district and the involved region to resolve the conflict. Not later than the 45th day after the date the groundwater management authority [~~conservation district~~] files a petition with the development board, if the conflict has not been resolved, the authority [~~district~~] and the involved region shall mediate the conflict. The authority [~~district~~] and the involved region may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the authority [~~district~~] and the involved region cannot resolve the conflict through mediation, the development board shall resolve the conflict not later than the 60th day after the date the mediation is completed as provided by Subsections (p-1) and (p-2).

(p-2)  If the development board determines that resolution of the conflict requires a revision of the authority's [~~district's~~] approved groundwater conservation [~~district~~] management plan, the development board shall provide information to the authority [~~district~~]. The groundwater management authority [~~district~~] shall prepare any revisions to its plan based on the information provided by the development board and shall hold, after notice, at least one public hearing at some central location readily accessible to the public within the authority [~~district~~]. The groundwater management authority [~~district~~] shall consider all public and development board comments, prepare, revise, and adopt its plan, and submit the revised plan to the development board.

(p-3)  If the groundwater management authority [~~conservation district~~] disagrees with the decision of the development board under Subsection (p), the authority [~~district~~] may appeal the decision to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo.

(p-4)  On the request of the involved region or groundwater management authority [~~conservation district~~], the development board shall include discussion of the conflict and its resolution in the state water plan that the development board provides to the governor, the lieutenant governor, and the speaker of the house of representatives under Section 16.051(e).

SECTION 137.  Section 16.055(j), Water Code, is amended to read as follows:

(j)  The board may enforce a violation of [~~notify the commission if the board determines that a person or entity has violated Subsection (h). Notwithstanding Section 7.051(b), a violation of~~] Subsection (h) [~~is enforceable~~] in the same manner as provided by Chapter 7 for the enforcement by the commission of a violation of a provision of this code within the commission's jurisdiction or of a rule adopted by the commission under a provision of this code within the commission's jurisdiction.

SECTION 138.  Section 16.059(e), Water Code, is amended to read as follows:

(e)  Results of studies completed under this section shall be considered by the board [~~commission~~] in its review of any management plan, water right, or interbasin transfer.

SECTION 139.  Section 16.196, Water Code, is amended to read as follows:

Sec. 16.196.  PREFERENCES. The board shall give political subdivisions a preferential right, but not an exclusive right, to purchase, acquire, or lease facilities and to purchase water from facilities. Preferences shall be given in these respects in accord with the provisions of Section 11.123 [~~of this code~~] relating to preferences in the appropriation and use of state water. [~~The board and the commission shall coordinate their efforts to meet these objectives and to assure that the public water of this state, which is held in trust for the use and benefit of the public, will be conserved, developed, and utilized in the greatest practicable measure for the public welfare.~~]

SECTION 140.  Section 16.236(h), Water Code, is amended to read as follows:

(h)  Subsection (a) [~~of this section~~] does not apply to:

(1)  any dam, reservoir, or canal system associated with a water right issued or recognized by the board [~~commission~~];

(2)  dams authorized by Section 11.142 [~~of this code~~];

(3)  a levee or other improvement within the corporate limits of a city or town provided: (a) plans for the construction or maintenance or both must be approved by the city or town as a condition precedent to starting the project and (b) the city or town requires that such plans be in substantial compliance with rules and standards adopted by the commission;

(4)  a levee or other improvement within the boundaries of any political subdivision which has qualified for the National Flood Insurance Program as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. [~~(Title 42, U.S.C.,~~] Sections 4001-4127) provided: (a) plans for the construction or maintenance or both must be approved by the political subdivision which is participating in the national flood insurance program as a condition precedent to starting the project and (b) the political subdivision requires that such plans be in substantial compliance with rules and standards adopted by the commission;

(5)  projects implementing soil and water conservation practices set forth in a conservation plan with a landowner or operator and approved by the governing board of a soil and water conservation district organized under Chapter 201, Agriculture Code [~~the State Soil Conservation Law, as amended (Article 165a-4, Vernon's Texas Civil Statutes)~~], provided that the governing board finds the practices do not significantly affect stream flooding conditions on, along, or near a state stream; or

(6)  any levee or other improvement constructed outside of the 100-year floodway. For the purposes of this section, "100-year floodway" is defined as the channel of a stream and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot above the 100-year flood elevation prior to encroachment.

SECTION 141.  Section 16.237(a), Water Code, is amended to read as follows:

(a)  If a person violates a commission rule or order adopted under Section 16.236 [~~of this code~~], the commission may assess an administrative penalty against that person in the manner [~~as~~] provided by Section 11.0842 for a violation of a rule or order adopted under Chapter 11. The penalty may be in an amount not to exceed $1,000 for each day the person is in violation of the rule or order. Each day a violation continues may be considered a separate violation for purposes of penalty assessment [~~of this code~~].

SECTION 142.  Section 18.001, Water Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1)  "Board" means the Texas Water Development Board.

(1-a) "Commission" means the Texas Commission on Environmental Quality.

SECTION 143.  Sections 18.003(c), (e), (h), (i), and (j), Water Code, are amended to read as follows:

(c)  A person who diverts and uses state water that consists of marine seawater under a permit required by Subsection (a) or as authorized by Subsection (b) must determine the total dissolved solids concentration of the seawater at the water source by monthly sampling and analysis and provide the data collected to the board [~~commission~~]. A person may not begin construction of a facility for the diversion of marine seawater without obtaining a permit until the person has provided data to the board [~~commission~~] based on the analysis of samples taken at the water source over a period of at least one year demonstrating that Subsection (a)(2) does not apply. A person who has begun construction of a facility for the diversion of marine seawater without obtaining a permit because the person has demonstrated that Subsection (a)(2) does not apply is not required to obtain a permit for the facility if the total dissolved solids concentration of the seawater at the water source subsequently changes so that Subsection (a)(2) applies.

(e)  The board [~~commission~~] shall adopt rules providing an expedited procedure for acting on an application for a permit required by Subsection (a). The rules must provide for notice, an opportunity for the submission of written comment, and an opportunity for a contested case hearing regarding board [~~commission~~] actions relating to an application for a permit.

(h)  The board [~~commission~~] by rule shall prescribe reasonable measures to minimize impingement and entrainment.

(i)  The Parks and Wildlife Department and the General Land Office jointly shall conduct a study to identify zones in the Gulf of Mexico that are appropriate for the diversion of marine seawater, taking into account the need to protect marine organisms. Not later than September 1, 2018, the Parks and Wildlife Department and the General Land Office shall submit a report on the results of the study to the board [~~commission~~]. The report must include recommended diversion zones for designation by the board [~~commission~~] and recommendations for the number of points from which, and the rate at which, a facility may divert marine seawater.  Not later than September 1, 2020, the board [~~commission~~] by rule shall designate appropriate diversion zones. A diversion zone may be contiguous to, be the same as, or overlap a discharge zone. The point or points from which a facility may divert marine seawater must be located in a diversion zone designated by the board [~~commission~~] under rules adopted under this subsection if:

(1)  the facility is authorized by a permit as required by Subsection (a) issued after the rules are adopted; or

(2)  the facility is exempt under Subsection (b) from the requirement of a permit and construction of the facility begins after the rules are adopted.

(j)  Until the board [~~commission~~] adopts rules under Subsection (i), a person must consult the Parks and Wildlife Department and the General Land Office regarding the point or points from which a facility the person proposes to construct may divert marine seawater before submitting an application for a permit for the facility if Subsection (a) applies or before beginning construction of the facility if Subsection (b) applies.

SECTION 144.  Sections 18.004(a) and (b), Water Code, are amended to read as follows:

(a)  With prior authorization granted under rules prescribed by the board [~~commission~~], a person may use the bed and banks of any flowing natural stream in this state or a lake, reservoir, or other impoundment in this state to convey marine seawater that has been treated so as to meet standards that are at least as stringent as the water quality standards applicable to the receiving stream or impoundment adopted by the commission.

(b)  The board [~~commission~~] shall provide for notice and an opportunity for the submission of written comment but may not provide an opportunity for a contested case hearing regarding board [~~commission~~] actions relating to an application for an authorization under this section to use the bed and banks of a flowing natural stream to convey treated marine seawater. The board [~~commission~~] shall provide for notice, an opportunity for the submission of written comment, and an opportunity for a contested case hearing regarding board [~~commission~~] actions relating to an application for an authorization under this section to use a lake, reservoir, or other impoundment to convey treated marine seawater.

SECTION 145.  Section 26.0291(a), Water Code, is amended to read as follows:

(a)  An annual water quality fee is imposed on:

(1)  each wastewater discharge permit holder, including the holder of a permit issued under Section 18.005, for each wastewater discharge permit held; and

(2)  each user of water in proportion to the user's water right, through permit or contract, as reflected in the board's [~~commission's~~] records, provided that the board [~~commission~~] by rule shall ensure that no fee shall be assessed for the portion of a municipal or industrial water right directly associated with a facility or operation for which a fee is assessed under Subdivision (1) [~~of this subsection~~].

SECTION 146.  Chapter 35, Water Code, is amended by designating Sections 35.001 through 35.020 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 147.  Section 35.001, Water Code, is amended to read as follows:

Sec. 35.001.  PURPOSE. In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of the groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater management authorities shall [~~areas may~~] be created as provided by this chapter.

SECTION 148.  Section 35.002(11), Water Code, is amended to read as follows:

(11)  "Groundwater management authority [~~Management area~~]" means a state agency created under Subchapter B [~~an area designated and delineated by the Texas Water Development Board as an area suitable for management of groundwater resources~~].

SECTION 149.  Section 35.020, Water Code, is amended to read as follows:

Sec. 35.020.  PUBLIC PARTICIPATION IN GROUNDWATER MANAGEMENT PROCESS. It is the policy of the state to encourage public participation in the groundwater management process in areas within a groundwater management authority [~~area~~] not represented by a groundwater conservation district.

SECTION 150.  Chapter 35, Water Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. GROUNDWATER MANAGEMENT AUTHORITIES

Sec. 35.051.  POLICY. Groundwater management authorities are created to assist the Texas Water Development Board in determining desired future conditions and groundwater availability of the state's aquifers.

Sec. 35.052.  CREATION. The Texas Water Development Board shall designate a groundwater management authority for each of the state's major aquifers that the board identifies as having reasonably accessible groundwater.

Sec. 35.053.  DESIRED FUTURE CONDITIONS. A groundwater management authority shall determine desired future conditions and groundwater availability for each major aquifer and each minor aquifer within its territory. If a minor aquifer is within more than one groundwater management authority territory, the Texas Water Development Board shall designate one groundwater management authority to manage the minor aquifer.

Sec. 35.054.  BOARD OF DIRECTORS. (a) Each groundwater management authority shall be governed by a board of seven directors appointed by the governor, with the advice and consent of the senate, to serve for six-year staggered terms. Each member of the board of directors must reside within the groundwater management authority's territory, and shall be selected from different geographic areas from within the authority's territory.

(b)  A member of the board of directors is entitled to the same per diem compensation and reimbursement of reasonable travel expenses as a member of the board of directors of a river authority.

Sec. 35.055.  POWERS AND DUTIES. A groundwater management authority may:

(1)  limit groundwater production based on tract size or the spacing of wells;

(2)  conserve, preserve, protect, and recharge groundwater;

(3)  control subsidence;

(4)  prevent degradation of water quality; and

(5)  prevent waste of groundwater.

Sec. 35.056.  RULES. (a) Groundwater management authorities may adopt such rules as may be necessary to govern their operations and any duties or powers granted to them in accordance with Chapter 2001, Government Code.

(b)  In adopting a rule under this section, a groundwater management authority shall:

(1)  consider all groundwater uses and needs;

(2)  develop rules that are fair and impartial;

(3)  consider the groundwater ownership and rights described by Section 36.002;

(4)  consider the public interest in:

(A)  conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions; and

(B)  controlling subsidence caused by withdrawal of groundwater from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution;

(5)  consider the goals developed as part of the authority's management plan under Section 36.1071; and

(6)  not discriminate between land that is irrigated for production and land that was irrigated for production and enrolled or participating in a federal conservation program.

Sec. 35.057.  ENFORCEMENT; PENALTIES. (a) A groundwater management authority may enforce this chapter, Chapter 36, and its rules against a person by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

(b)  The groundwater management authority's board by rule may set reasonable civil penalties against a person for breach of any rule of the authority not to exceed $10,000 per day per violation, and each day of a continuing violation constitutes a separate violation.

(c)  A penalty under this section is in addition to any other penalty provided by law and may be enforced against a person by complaints filed in the appropriate court of jurisdiction in the county in which the groundwater management authority's principal office or meeting place is located.

(d)  In an enforcement action by a groundwater management authority against a person that is a governmental entity for a violation of authority rules, the limits on the amount of fees, costs, and penalties that an authority may impose under Section 36.122, 36.205, or this section, or under a special law governing a district operating under Chapter 36, constitute a limit of liability of the governmental entity for the violation. This subsection may not be construed to prohibit the recovery by an authority of fees and costs in an action against any person that is a governmental entity.

(e)  A groundwater management authority may, in its sole discretion, order the limitation or cessation of groundwater production for any purpose other than for domestic and livestock use in order to ensure the aquifer's water volume does not fall below the minimum water volume established by Section 36.1071(e)(3)(H).

(f)  To assist in enforcement efforts, a groundwater management authority may delegate enforcement authority under this section to one or more groundwater conservation districts to act on the authority's behalf under the terms as the authority may consider appropriate. The authority may rescind or modify the delegation at any time.

Sec. 35.058.  COSTS. (a) The costs of operation of the groundwater management authorities shall be funded by the Texas Water Development Board from the fees assessed in Section 12.115.

(b)  A groundwater management authority may, by rule, set and charge other reasonable fees for administrative acts of the authority, and may use those fees for any purpose of the authority.

Sec. 35.059.  CONFLICTS OF LAW. To the extent there is any conflict between a rule adopted by a groundwater conservation district and a groundwater management authority, the rules of the groundwater management authority control.

Sec. 35.060.  SUITS. A groundwater management authority may sue and be sued. A person affected by and dissatisfied with any rule or order made by an authority, including an appeal of a decision on a permit application, may file a suit against the authority to challenge the validity of the law, rule, or order. Venue is in state district court of Travis County.

Sec. 35.061.  MEETINGS. Meetings of the board of directors shall be governed by Chapter 551, Government Code.

Sec. 35.062.  STAFF. The authority's board may hire a general manager and other staff and outside consultants as necessary.

SECTION 151.  Sections 36.001(29) and (30), Water Code, are amended to read as follows:

(29)  "Groundwater management authority" has the meaning assigned by Section 35.002 [~~"Evidence of historic or existing use" means evidence that is material and relevant to a determination of the amount of groundwater beneficially used without waste by a permit applicant during the relevant time period set by district rule that regulates groundwater based on historic use. Evidence in the form of oral or written testimony shall be subject to cross-examination. The Texas Rules of Evidence govern the admissibility and introduction of evidence of historic or existing use, except that evidence not admissible under the Texas Rules of Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs~~].

(30)  "Desired future condition" means a quantitative description, adopted in accordance with Section 36.108, of the desired condition of the groundwater resources in an aquifer [~~a management area~~] at one or more specified future times.

SECTION 152.  Section 36.0015(b), Water Code, is amended to read as follows:

(b)  In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater conservation districts may be created as provided by this chapter. Groundwater management authorities created as provided by Chapter 35 and groundwater conservation districts created as provided by this chapter are the state's preferred method of groundwater management in order to protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater through rules developed, adopted, and promulgated by a district in accordance with [~~the provisions of~~] this chapter or by a groundwater management authority in accordance with Chapter 35 and this chapter.

SECTION 153.  Section 36.002(d), Water Code, is amended to read as follows:

(d)  This section does not:

(1)  prohibit a district or groundwater management authority, as applicable, from limiting or prohibiting the drilling of a well by a landowner for failure or inability to comply with minimum well spacing or tract size requirements adopted by the groundwater management authority [~~district~~];

(2)  affect the ability of a district or groundwater management authority, as applicable, to regulate groundwater production as authorized under Section 36.113, 36.116, or 36.122 or otherwise under this chapter or a special law governing a district; or

(3)  require that a rule adopted by a district or groundwater management authority, as applicable, allocate to each landowner a proportionate share of available groundwater for production from the aquifer based on the number of acres owned by the landowner.

SECTION 154.  Section 36.012(c), Water Code, is amended to read as follows:

(c)  The boundaries of a district must be coterminous with or inside the boundaries of a groundwater management authority [~~area~~] or a priority groundwater management area.

SECTION 155.  Sections 36.015(b), (c), and (f), Water Code, are amended to read as follows:

(b)  The commission may not certify a petition if the commission finds that the proposed district cannot be adequately funded to carry out its purposes based on the financial information provided in the petition under Section 36.013(c)(6) or that the boundaries of the proposed district do not provide for the effective management of the groundwater resources. The commission shall give preference to boundary lines that are coterminous with those of a groundwater management authority [~~area~~] but may also consider boundaries along existing political subdivision boundaries if such boundaries would facilitate district creation and confirmation.

(c)  If a petition proposes the creation of a district in an area, in whole or in part, that has not been designated as a groundwater management authority [~~area~~], the commission shall provide notice to the Texas Water Development Board. On the receipt of notice from the commission, the Texas Water Development Board shall initiate the process of designating or expanding a groundwater management authority [~~area~~] for the area of the proposed district not included in a management authority [~~area~~]. The commission may not certify the petition until the Texas Water Development Board has adopted a rule whereby the boundaries of the proposed district are coterminous with or inside the boundaries of a management authority [~~area~~].

(f)  Refusal by the commission to certify a petition to create a district does not invalidate or affect the designation of any groundwater management authority [~~area~~].

SECTION 156.  Section 36.063(b), Water Code, is amended to read as follows:

(b)  At least 10 days before a hearing under Section 36.108(d-2) [~~or a meeting at which a district will adopt a desired future condition under Section 36.108(d-4)~~], the board of each district included in the applicable groundwater management authority must post notice that includes:

(1)  the proposed desired future conditions and a list of any other agenda items;

(2)  the date, time, and location of the meeting or hearing;

(3)  the name, telephone number, and address of the person to whom questions or requests for additional information may be submitted;

(4)  the names of the other districts in the groundwater [~~district's~~] management authority [~~area~~]; and

(5)  information on how the public may submit comments.

SECTION 157.  Sections 36.101(a) and (a-1), Water Code, are amended to read as follows:

(a)  A district may make and enforce rules, including rules [~~limiting groundwater production based on tract size or the spacing of wells,~~] to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, prevent degradation of water quality, or prevent waste of groundwater and to carry out the powers and duties provided by this chapter. A district may not adopt rules regarding the spacing of wells, the withdrawal of water from wells, or water exports, except fees for water exported from a district [~~In adopting a rule under this chapter, a district shall:~~

[~~(1)  consider all groundwater uses and needs;~~

[~~(2)  develop rules that are fair and impartial;~~

[~~(3)  consider the groundwater ownership and rights described by Section 36.002;~~

[~~(4)  consider the public interest in conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and in controlling subsidence caused by withdrawal of groundwater from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution;~~

[~~(5)  consider the goals developed as part of the district's management plan under Section 36.1071; and~~

[~~(6)  not discriminate between land that is irrigated for production and land that was irrigated for production and enrolled or participating in a federal conservation program~~].

(a-1)  Any rule of a district or groundwater management authority that discriminates between land that is irrigated for production and land that was irrigated for production and enrolled or participating in a federal conservation program is void.

SECTION 158.  Sections 36.105(a), (d), and (e), Water Code, are amended to read as follows:

(a)  A district or groundwater management authority may exercise the power of eminent domain to acquire by condemnation a fee simple or other interest in property if that property interest is:

(1)  within the boundaries of the district or groundwater management authority; and

(2)  necessary for conservation purposes, including monitoring, recharge, and reuse.

(d)  In a condemnation proceeding brought by a district or groundwater management authority, the district or groundwater management authority is not required to pay in advance or give bond or other security for costs in the trial court, to give bond for the issuance of a temporary restraining order or a temporary injunction, or to give bond for costs or supersedeas on an appeal or writ of error.

(e)  In exercising the power of eminent domain, if the district or groundwater management authority requires relocating, raising, lowering, rerouting, changing the grade, or altering the construction of any railroad, highway, pipeline, or electric transmission or distribution, telegraph, or telephone lines, conduits, poles, or facilities, the district or authority must bear the actual cost of relocating, raising, lowering, rerouting, changing the grade, or altering the construction to provide comparable replacement without enhancement of facilities after deducting the net salvage value derived from the old facility.

SECTION 159.  Section 36.106, Water Code, is amended to read as follows:

Sec. 36.106.  SURVEYS. A district or groundwater management authority may make surveys of the groundwater reservoir or subdivision and surveys of the facilities in order to determine the quantity of water available for production and use and to determine the improvements, development, and recharging needed by a reservoir or its subdivision.

SECTION 160.  Section 36.107, Water Code, is amended to read as follows:

Sec. 36.107.  RESEARCH. A district or groundwater management authority may carry out any research projects deemed necessary by its [~~the~~] board.

SECTION 161.  Section 36.1071, Water Code, is amended to read as follows:

Sec. 36.1071.  MANAGEMENT PLAN. (a) Following notice and hearing, the groundwater management authority, with the assistance and input from all districts within the authority's territory [~~district~~] shall, in coordination with surface water management entities on a regional basis, develop a management plan that addresses the following management goals, as applicable:

(1)  providing the most efficient use of groundwater;

(2)  controlling and preventing waste of groundwater;

(3)  controlling and preventing subsidence;

(4)  addressing conjunctive surface water management issues;

(5)  addressing natural resource issues;

(6)  addressing drought conditions;

(7)  addressing conservation, recharge enhancement, rainwater harvesting, precipitation enhancement, or brush control, where appropriate and cost-effective; and

(8)  addressing the desired future conditions adopted [~~by the district~~] under Section 36.108.

(b)  The management plan, or any amendments to the plan, shall be developed using the groundwater management authority's [~~district's~~] best available data and forwarded to the regional water planning group for use in their planning process.

(c)  The commission and the Texas Water Development Board shall provide technical assistance [~~to a district~~] in the development of the management plan required under Subsection (a) which may include, if requested by the groundwater management authority [~~district~~], a preliminary review and comment on the plan prior to final approval by the groundwater management authority [~~board~~]. If such review and comment by the commission is requested, the commission shall provide comment not later than 30 days from the date the request is received.

(d)  The commission and the Texas Water Development Board shall provide technical assistance to a district or groundwater management authority during its initial operational phase. If requested by a district or a groundwater management authority, the Texas Water Development Board shall provide training [~~train the district~~] on basic data collection methodology and provide technical assistance [~~to districts~~].

(e)  In the management plan described under Subsection (a), the groundwater management authority [~~district~~] shall:

(1)  identify the performance standards and management objectives under which the groundwater management authority [~~district~~] will operate to achieve the management goals identified under Subsection (a);

(2)  specify, in as much detail as possible, the actions, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed rules;

(3)  include estimates of the following:

(A)  modeled available groundwater in the groundwater management authority [~~district~~] based on the desired future condition established under Section 36.108;

(B)  the amount of groundwater being used within the groundwater management authority [~~district~~] on an annual basis;

(C)  the annual amount of recharge from precipitation, if any, to the groundwater resources within the groundwater management authority [~~district~~];

(D)  for each aquifer, the annual volume of water that discharges from the aquifer to springs and any surface water bodies, including lakes, streams, and rivers;

(E)  the annual volume of flow into and out of the groundwater management authority [~~district~~] within each aquifer and between aquifers in the groundwater management authority [~~district~~], if a groundwater availability model is available;

(F)  the projected surface water supply in the groundwater management authority [~~district~~] according to the most recently adopted state water plan or water availability model; [~~and~~]

(G)  the projected total demand for water in the groundwater management authority [~~district~~] according to the most recently adopted state water plan; and

(H)  the minimum amount of groundwater necessary to sustain six months of domestic and livestock use during the most recent drought of record; and

(4)  consider the water supply needs and water management strategies included in the adopted state water plan.

(f)  The groundwater management authority [~~district~~] shall adopt rules necessary to implement the management plan. Prior to the development of the management plan and its approval under Section 36.1072, the groundwater management authority or district may not adopt rules other than rules pertaining to the registration and interim permitting of new and existing wells and rules governing spacing and procedure before the groundwater management authority's or district's board; however, the groundwater management authority [~~district~~] may not adopt any rules limiting the production of wells, except rules requiring that groundwater produced from a well be put to a nonwasteful, beneficial use. The district or groundwater management authority may accept applications for permits under Section 36.113, provided the district or groundwater management authority does not act on any such application until the groundwater management authority's [~~district's~~] management plan is approved as provided in Section 36.1072.

(g)  The groundwater management authority [~~district~~] shall adopt amendments to the management plan as necessary. Amendments to the management plan shall be adopted after notice and hearing and shall otherwise comply with the requirements of this section.

(h)  In developing its management plan, the groundwater management authority [~~district~~] shall use the groundwater availability modeling information provided by the executive administrator together with any available site-specific information that has been provided by the district or groundwater management authority to the executive administrator for review and comment before being used in the plan.

(i)  The data determined in this section and placed in the final groundwater management plan is not subject to challenge in court in any collateral legal action.

SECTION 162.  Sections 36.1072(a-1), (b), (c), (e), (f), and (g), Water Code, are amended to read as follows:

(a-1)  A groundwater management authority [~~district~~] shall, not later than September 1, 2022 [~~three years after the creation of the district or, if the district required confirmation, not later than three years after the election confirming the district's creation~~], submit the management plan required under Section 36.1071 to the executive administrator for review and approval.

(b)  Within 60 days of receipt of a [~~district's~~] management plan adopted under Section 36.1071, readopted under Subsection (e) or (g) [~~of this section~~], or amended under Section 36.1073, the executive administrator shall approve the [~~district's~~] plan if the plan is administratively complete. A management plan is administratively complete when it contains the information required to be submitted under Section 36.1071(a) and (e). The executive administrator may determine whether conditions justify waiver of the requirements under Section 36.1071(e)(4).

(c)  Once the executive administrator has approved a [~~district's~~] management plan:

(1)  the executive administrator may not revoke but may require revisions to the approved management plan as provided by Subsection (g); and

(2)  the executive administrator may request additional information from the groundwater management authority [~~district~~] if the information is necessary to clarify, modify, or supplement previously submitted material, but a request for additional information does not render the management plan unapproved.

(e)  The groundwater management authority [~~district~~] may review the plan annually and must review and readopt the plan with or without revisions at least once every five years. The groundwater management authority [~~district~~] shall provide the readopted plan to the executive administrator not later than the 60th day after the date on which the plan was readopted. Approval of the preceding management plan remains in effect until:

(1)  the groundwater management authority [~~district~~] fails to timely readopt a management plan;

(2)  the groundwater management authority [~~district~~] fails to timely submit the groundwater management authority's [~~district's~~] readopted management plan to the executive administrator; or

(3)  the executive administrator determines that the readopted management plan does not meet the requirements for approval, and the groundwater management authority [~~district~~] has exhausted all appeals to the Texas Water Development Board [~~or appropriate court~~].

(f)  If the executive administrator does not approve the groundwater management authority's [~~district's~~] management plan, the executive administrator shall provide to the groundwater management authority [~~district~~], in writing, the reasons for the action. Not later than the 180th day after the date a groundwater management authority [~~district~~] receives notice that its management plan has not been approved, the groundwater management authority [~~district~~] may submit a revised management plan for review and approval. The executive administrator's decision may be appealed to the development board. [~~If the development board decides not to approve the district's management plan on appeal, the district may request that the conflict be mediated. The district and the board may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the parties do not resolve the conflict through mediation, the decision of the development board not to approve the district's management plan may be appealed to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo. The commission shall not take enforcement action against a district under Subchapter I until the latest of the expiration of the 180-day period, the date the development board has taken final action withholding approval of a revised management plan, the date the mediation is completed, or the date a final judgment upholding the board's decision is entered by a district court. An enforcement action may not be taken against a district by the commission or the state auditor under Subchapter I because the district's management plan and the approved regional water plan are in conflict while the parties are attempting to resolve the conflict before the development board, in mediation, or in court. Rules of the district continue in full force and effect until all appeals under this subsection have been exhausted and the final judgment is adverse to the district.~~]

(g)  A person with a legally defined interest in groundwater in a groundwater management authority [~~district~~], or the regional water planning group, may file a petition with the development board stating that a conflict requiring resolution may exist between the authority's [~~district's~~] approved management plan developed under Section 36.1071 and the state water plan. If a conflict exists, the development board shall provide technical assistance to and facilitate coordination between the involved person or regional water planning group and the groundwater management authority [~~district~~] to resolve the conflict. Not later than the 45th day after the date the person or the regional water planning group files a petition with the development board, if the conflict has not been resolved, the groundwater management authority [~~district~~] and the involved person or regional planning group may petition the executive administrator to resolve [~~mediate~~] the conflict. The [~~district and the involved person or regional planning group may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the district and the involved person or regional planning group cannot resolve the conflict through mediation, the~~] development board shall resolve the conflict not later than the 60th day after the date the petition is received [~~mediation is completed~~]. The development board action under this provision may be consolidated, at the option of the development board, with related action under Section 16.053(p). If the development board determines that resolution of the conflict requires a revision of the approved management plan, the development board shall provide information to the groundwater management authority [~~district~~]. The groundwater management authority [~~district~~] shall prepare any revisions to the plan based on the information provided by the development board and shall hold, after notice, at least one public hearing at some central location within the groundwater management authority [~~district~~]. The groundwater management authority [~~district~~] shall consider all public and development board comments, prepare, revise, and adopt its management plan, and submit the revised management plan to the development board for approval. On the request of the groundwater management authority [~~district~~] or the regional water planning group, the development board shall include discussion of the conflict and its resolution in the state water plan that the development board provides to the governor, the lieutenant governor, and the speaker of the house of representatives under Section 16.051(e). [~~If the groundwater conservation district disagrees with the decision of the development board under this subsection, the district may appeal the decision to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo.~~]

SECTION 163.  Section 36.1073, Water Code, is amended to read as follows:

Sec. 36.1073.  AMENDMENT TO MANAGEMENT PLAN. Any amendment to the management plan shall be submitted to the executive administrator within 60 days following adoption of the amendment by the groundwater management authority's [~~district's~~] board. The executive administrator shall review and approve any amendment which substantially affects the management plan in accordance with the procedures established under Section 36.1072.

SECTION 164.  The heading to Section 36.108, Water Code, is amended to read as follows:

Sec. 36.108.  JOINT PLANNING IN GROUNDWATER MANAGEMENT AUTHORITY [~~AREA~~].

SECTION 165.  Sections 36.108(a), (b), (c), (d), (d-1), (d-2), (d-3), (e), and (e-2), Water Code, are amended to read as follows:

(a)  In this section:

(1)  "Development board" means the Texas Water Development Board.

(2)  "District representative" means the presiding officer or the presiding officer's designee for any district located wholly or partly in the groundwater management authority's boundaries [~~area~~].

(b)  If two or more districts are located within the boundaries of the same groundwater management authority [~~area~~], each district shall cooperate with and provide any data requested by the groundwater management authority, and the authority shall consider the input and recommendations from each district in developing its management plan [~~forward a copy of that district's new or revised management plan to the other districts in the management area. The boards of the districts shall consider the plans individually and shall compare them to other management plans then in force in the management area~~].

(c)  The district representatives shall meet at least annually to conduct joint planning with the groundwater management authority in which the districts are located [~~other districts in the management area~~] and to review the management plans, the accomplishments of the groundwater management authority [~~area~~], and proposals to adopt new or amend existing desired future conditions. In reviewing the management plans, the districts and groundwater management authority shall consider:

(1)  the goals of the [~~each~~] management plan and its impact on planning throughout the groundwater management authority [~~area~~];

(2)  the effectiveness of the measures established by the [~~each district's~~] management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the groundwater management authority [~~area~~] generally;

(3)  any other matters that the boards of the districts and the groundwater management authority consider relevant to the protection and conservation of groundwater and the prevention of waste in the groundwater management authority area; and

(4)  the degree to which each management plan achieves the desired future conditions established during the joint planning process.

(d)  Not later than May 1, 2021, and every five years thereafter, the districts and groundwater management authority shall consider groundwater availability models and other data or information for the groundwater management authority [~~area~~] and shall propose for adoption desired future conditions for the relevant aquifers within the groundwater management authority [~~area~~]. Before voting on the proposed desired future conditions of the aquifers under Subsection (d-3) [~~(d-2)~~], the groundwater management authority [~~districts~~] shall consider:

(1)  aquifer uses or conditions within the groundwater management authority [~~area~~], including conditions that differ substantially from one geographic area to another;

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

(3)  hydrological conditions, including for each aquifer in the groundwater management authority [~~area~~] the total estimated recoverable storage as provided by the executive administrator, and the average annual recharge, inflows, and discharge;

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

(5)  the impact on subsidence;

(6)  socioeconomic impacts reasonably expected to occur;

(7)  the impact on the interests and rights in private property, including ownership and the rights of landowners within the groundwater management authority [~~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-1)  After considering and documenting the factors described by Subsection (d) and other relevant scientific and hydrogeological data, the groundwater management authority, with the input and assistance of the districts, may establish different desired future conditions for:

(1)  each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the groundwater management authority [~~area~~]; or

(2)  each geographic area overlying an aquifer in whole or in part or subdivision of an aquifer within the boundaries of the groundwater management authority [~~area~~].

(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 groundwater management authority [~~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 adopted by the groundwater management authority's board of directors [~~mailed to the districts~~]. During the public comment period and after posting notice as required by Section 36.063, the groundwater management authority [~~each district~~] shall hold a public hearing on any proposed desired future conditions [~~relevant to that district~~]. During the public comment period, the groundwater management authority [~~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. After the close of the public comment period, the groundwater management authority [~~district~~] shall compile for consideration at the next groundwater management authority board [~~joint planning~~] meeting, and shall provide a copy to each district within its boundaries, a summary of relevant comments received, any suggested revisions to the proposed desired future conditions, and the basis for the revisions. Not later than the 30th day after the date the groundwater management authority sends the documents described by this subsection to the districts, the districts shall provide written comments to the groundwater management authority.

(d-3)  After all the districts have submitted their comments [~~district summaries~~], the groundwater management authority board [~~district representatives~~] shall:

(1)  meet [~~reconvene~~] to review the reports, consider any district's suggested revisions to the proposed desired future conditions, and finally adopt the desired future conditions for the groundwater management authority; and

(2)  [~~area.  The desired future conditions must be approved by a resolution adopted by a two-thirds vote of all the district representatives not later than January 5, 2022.  Subsequent desired future conditions must be proposed and finally adopted by the district representatives before the end of each successive five-year period after that date.  The district representatives shall~~] produce a desired future conditions explanatory report for the groundwater management authority [~~area~~] and submit to the development board [~~and each district in the management area proof that notice was posted for the joint planning meeting,~~] a copy of the resolution[~~,~~] and a copy of the explanatory report, which [~~.  The report~~] must:

(A) [~~(1)~~]  identify each desired future condition;

(B) [~~(2)~~]  provide the policy and technical justifications for each desired future condition;

(C) [~~(3)~~]  include documentation that the factors under Subsection (d) were considered by the groundwater management authority [~~districts~~] and a discussion of how the adopted desired future conditions impact each factor;

(D) [~~(4)~~]  list other desired future condition options considered, if any, and the reasons why those options were not adopted; and

(E) [~~(5)~~]  discuss reasons why recommendations made by advisory committees and relevant public comments received by the groundwater management authority [~~districts~~] were or were not incorporated into the desired future conditions.

(e)  Except as provided by this section, a joint meeting under this section must be held in accordance with Chapter 551, Government Code. Each district shall comply with Chapter 552, Government Code. The district representatives may elect one district to be responsible for providing the notice of a joint meeting that this section would otherwise require of each district in the groundwater management authority [~~area~~]. Notice of a joint meeting must be provided at least 10 days before the date of the meeting by:

(1)  providing notice to the secretary of state;

(2)  providing notice to the county clerk of each county located wholly or partly in a district that is located wholly or partly in the groundwater management authority [~~area~~]; and

(3)  posting notice at a place readily accessible to the public at the district office of each district located wholly or partly in the groundwater management authority's boundaries, and in the groundwater management authority office [~~area~~].

(e-2)  Notice of a joint meeting must include:

(1)  the date, time, and location of the meeting;

(2)  a summary of any action proposed to be taken;

(3)  the name of the groundwater management authority and each district located wholly or partly in the groundwater management authority [~~area~~]; and

(4)  the name, telephone number, and address of one or more persons to whom questions, requests for additional information, or comments may be submitted.

SECTION 166.  Section 36.1081(b), Water Code, is amended to read as follows:

(b)  During the joint planning process under Section 36.108, the district representatives or groundwater management authority may appoint and convene nonvoting advisory subcommittees who represent social, governmental, environmental, or economic interests to assist in the development of desired future conditions.

SECTION 167.  Sections 36.1083(b), (e), (h), (j), (k), (m), (n), (o), and (p), Water Code, are amended to read as follows:

(b)  Not later than the 120th day after the date on which a groundwater management authority [~~district~~] adopts a desired future condition [~~under Section 36.108(d-4)~~], an affected person may file a petition with the groundwater management authority [~~district~~] requiring that the groundwater management authority [~~district~~] contract with the office to conduct a hearing appealing the reasonableness of the desired future condition. The petition must provide evidence that the groundwater management authority [~~districts~~] did not establish a reasonable desired future condition of the groundwater resources in the groundwater management authority's boundaries [~~area~~].

(e)  Not later than the 10th day after receiving a petition described by Subsection (b), the groundwater management authority [~~district~~] shall submit a copy of the petition to the development board. On receipt of the petition, the development board shall conduct:

(1)  an administrative review to determine whether the desired future condition established by the groundwater management authority [~~district~~] meets the criteria in Section 36.108(d); and

(2)  a study containing scientific and technical analysis of the desired future condition, including consideration of:

(A)  the hydrogeology of the aquifer;

(B)  the explanatory report provided to the development board under Section 36.108(d-3);

(C)  the factors described under Section 36.108(d); and

(D)  any relevant:

(i)  groundwater availability models;

(ii)  published studies;

(iii)  estimates of total recoverable storage capacity;

(iv)  average annual amounts of recharge, inflows, and discharge of groundwater; or

(v)  information provided in the petition or available to the development board.

(h)  Not later than the 60th day after receiving a petition under Subsection (b), the groundwater management authority [~~district~~] shall:

(1)  contract with the office to conduct the contested case hearing requested under Subsection (b); and

(2)  submit to the office a copy of any petitions related to the hearing requested under Subsection (b) and received by the groundwater management authority [~~district~~].

(j)  During the period between the filing of the petition and the delivery of the study described by Subsection (e)(2), the groundwater management authority [~~district~~] may seek the assistance of the Center for Public Policy Dispute Resolution, the development board, or another alternative dispute resolution system to mediate the issues raised in the petition. If the groundwater management authority [~~district~~] and the petitioner cannot resolve the issues raised in the petition, the office will proceed with a hearing as described by this section.

(k)  The groundwater management authority [~~district~~] may adopt rules for notice and hearings conducted under this section that are consistent with the procedural rules of the office. In accordance with rules adopted by the groundwater management authority [~~district~~] and the office, the groundwater management authority [~~district~~] shall provide:

(1)  general notice of the hearing; and

(2)  individual notice of the hearing to:

(A)  the petitioner;

(B)  any person who has requested notice;

(C)  each [~~nonparty~~] district and regional water planning group located in the same groundwater management authority [~~management area as a district~~] named in the petition; and

(D)  the development board[~~; and~~

[~~(E)  the commission~~].

(m)  The petitioner shall pay the costs associated with the contract for the hearing under this section. The petitioner shall deposit with the groundwater management authority [~~district~~] an amount sufficient to pay the contract amount before the hearing begins. After the hearing, the office may assess costs to one or more of the parties participating in the hearing and the groundwater management authority [~~district~~] shall refund any excess money to the petitioner. The office shall consider the following in apportioning costs of the hearing:

(1)  the party who requested the hearing;

(2)  the party who prevailed in the hearing;

(3)  the financial ability of the party to pay the costs;

(4)  the extent to which the party participated in the hearing; and

(5)  any other factor relevant to a just and reasonable assessment of costs.

(n)  On receipt of the administrative law judge's findings of fact and conclusions of law in a proposal for decision, including a dismissal of a petition, the groundwater management authority [~~district~~] shall issue a final order stating the groundwater management authority's [~~district's~~] decision on the contested matter and the groundwater management authority's [~~district's~~] findings of fact and conclusions of law. The groundwater management authority [~~district~~] may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative law judge, as provided by Section 2001.058(e), Government Code.

(o)  If the groundwater management authority [~~district~~] vacates or modifies the proposal for decision, the groundwater management authority [~~district~~] shall issue a report describing in detail the groundwater management authority's [~~district's~~] reasons for disagreement with the administrative law judge's findings of fact and conclusions of law. The report shall provide the policy, scientific, and technical justifications for the groundwater management authority's [~~district's~~] decision.

(p)  If the groundwater management authority [~~district~~] in its final order finds that a desired future condition is unreasonable, not later than the 60th day after the date of the final order, the authority [~~districts in the same management area as the district that received the petition shall reconvene in a joint planning meeting for the purpose of revising the desired future condition. The districts in the management area~~] shall follow the procedures in Section 36.108 to adopt new desired future conditions [~~applicable to the district that received the petition~~].

SECTION 168.  Section 36.10835(a), Water Code, is amended to read as follows:

(a)  A final groundwater management authority [~~district~~] order issued under Section 36.1083 may be appealed to a district court with jurisdiction over any part of the territory of the groundwater management authority [~~district~~] that issued the order. An appeal under this subsection must be filed with the district court not later than the 45th day after the date the groundwater management authority [~~district~~] issues the final order. The case shall be decided under the substantial evidence standard of review as provided by Section 2001.174, Government Code. If the court finds that a desired future condition is unreasonable, the court shall strike the desired future condition and order the groundwater management authority's board [~~districts in the same management area as the district that received the petition~~] to reconvene not later than the 60th day after the date of the court order to revise [~~in a joint planning meeting for the purpose of revising~~] the desired future condition. [~~The districts in the management area shall follow the procedures in Section 36.108 to adopt new desired future conditions applicable to the district that received the petition.~~]

SECTION 169.  Section 36.1084, Water Code, is amended to read as follows:

Sec. 36.1084.  MODELED AVAILABLE GROUNDWATER. (a) The Texas Water Development Board shall require each groundwater management authority [~~the districts in a management area~~] to submit to the executive administrator not later than the 60th day after the date on which the groundwater management authority [~~districts~~] adopted desired future conditions under Section 36.108(d-3):

(1)  the desired future conditions adopted under Section 36.108;

(2)  proof that notice was posted for the joint planning meeting; and

(3)  the desired future conditions explanatory report.

(b)  The executive administrator shall provide each groundwater management authority, district and regional water planning group located wholly or partly in the groundwater management authority territory [~~area~~] with the modeled available groundwater in the groundwater management authority [~~area~~] based upon the desired future conditions adopted by the groundwater management authority [~~districts~~].

SECTION 170.  Section 36.1085, Water Code, is amended to read as follows:

Sec. 36.1085.  MANAGEMENT PLAN GOALS AND OBJECTIVES. Each groundwater management authority [~~district in the management area~~] shall ensure that its management plan contains goals and objectives consistent with achieving the desired future conditions of the relevant aquifers [~~as adopted during the joint planning process~~].

SECTION 171.  Section 36.1086, Water Code, is amended to read as follows:

Sec. 36.1086.  JOINT EFFORTS BY DISTRICTS [~~IN A MANAGEMENT AREA~~]. Districts located within the same groundwater management authority territory [~~areas~~] or in adjacent groundwater management authority territories [~~areas~~] may contract [~~to~~] jointly, with each other or with groundwater management authorities, to conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of equipment; and the implementation of projects to make groundwater available, including aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts and authorities may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

SECTION 172.  Section 36.109, Water Code, is amended to read as follows:

Sec. 36.109.  COLLECTION OF INFORMATION. A district or groundwater management authority may collect any information the entity's board deems necessary, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir. At the request of the executive administrator, the district or authority shall provide any data collected by the district or authority in a format acceptable to the executive administrator.

SECTION 173.  Section 36.110, Water Code, is amended to read as follows:

Sec. 36.110.  PUBLICATION OF PLANS AND INFORMATION. A district or authority may publish its plans and the information it develops, bring them to the attention of the users of groundwater in the district or authority, and encourage the users to adopt and use them.

SECTION 174.  Section 36.111, Water Code, is amended to read as follows:

Sec. 36.111.  RECORDS AND REPORTS. (a) The district or authority may require that records be kept and reports be made of the drilling, equipping, and completing of water wells and of the production and use of groundwater.

(b)  In implementing Subsection (a), a district or authority may adopt rules that require an owner or operator of a water well that is required to be registered with or permitted by the district or authority, except for the owner or operator of a well that is exempt from permit requirements under Section 36.117(b)(1), to report groundwater withdrawals using reasonable and appropriate reporting methods and frequency.

SECTION 175.  Section 36.112, Water Code, is amended to read as follows:

Sec. 36.112.  DRILLERS' LOGS. A district or authority shall require that accurate drillers' logs be kept of water wells and that copies of drillers' logs and electric logs be filed with the district or authority.

SECTION 176.  Sections 36.113(c) and (d), Water Code, are amended to read as follows:

(c)  A district may require that only the following be included in the permit or permit amendment application, as applicable under the rules of the district:

(1)  the name and mailing address of the applicant and the owner of the land on which the well will be located;

(2)  if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;

(3)  a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

(4)  a water conservation plan or a declaration that the applicant will comply with the groundwater management authority's [~~district's~~] management plan;

(5)  the location of each well and the estimated rate at which water will be withdrawn;

(6)  a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the commission;

(7)  a drought contingency plan; and

(8)  other information:

(A)  included in a rule of the district in effect on the date the application is submitted that specifies what information must be included in an application for a determination of administrative completeness; and

(B)  reasonably related to an issue that a district by law is authorized to consider.

(d)  This subsection does not apply to the renewal of an operating permit issued under Section 36.1145. Before granting or denying a permit, or a permit amendment issued in accordance with Section 36.1146, the district shall consider whether:

(1)  the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2)  the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3)  the proposed use of water is dedicated to any beneficial use;

(4)  the proposed use of water is consistent with the groundwater management authority's [~~district's~~] approved management plan;

(5)  if the well will be located in the Hill Country Priority Groundwater Management Area, the proposed use of water from the well is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape;

(6)  the applicant has agreed to avoid waste and achieve water conservation; and

(7)  the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

SECTION 177.  Section 36.1131, Water Code, is amended to read as follows:

Sec. 36.1131.  ELEMENTS OF PERMIT. (a) A permit issued by the district to the applicant under Section 36.113 shall state the terms and provisions prescribed by the district, which must comply with the rules and management plan of the groundwater management authority.

(b)  The permit may include:

(1)  the name and address of the person to whom the permit is issued;

(2)  the location of the well;

(3)  the date the permit is to expire if no well is drilled;

(4)  a statement of the purpose for which the well is to be used;

(5)  a requirement that the water withdrawn under the permit be put to beneficial use at all times;

(6)  the location of the use of the water from the well;

(7)  a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the commission;

(8)  the conditions and restrictions, if any, placed on the rate and amount of withdrawal;

(9)  any conservation-oriented methods of drilling and operating prescribed by the district;

(10)  a drought contingency plan prescribed by the district, which must comply with the groundwater management area's rules and management plan; and

(11)  other terms and conditions as provided by Section 36.113.

SECTION 178.  Section 36.1132, Water Code, is amended to read as follows:

Sec. 36.1132.  PERMITS BASED ON MODELED AVAILABLE GROUNDWATER. (a) A district, to the extent possible, shall issue permits up to the point that the total volume of exempt and permitted groundwater production will achieve an applicable desired future condition under Section 36.108. The groundwater management authority that includes the territory of the district shall provide the district with the amount of groundwater availability and desired future conditions under which the district may issue permits.

(b)  The district shall issue permits based on the features of the aquifer underlying the applicant's land from which the water is proposed to be drawn, along with the landowner's contiguous acreage for the land on which the well would exist in relation to the area of the aquifer [~~In issuing permits, the district shall manage total groundwater production on a long-term basis to achieve an applicable desired future condition and consider:~~

[~~(1)  the modeled available groundwater determined by the executive administrator;~~

[~~(2)  the executive administrator's estimate of the current and projected amount of groundwater produced under exemptions granted by district rules and Section 36.117;~~

[~~(3)  the amount of groundwater authorized under permits previously issued by the district;~~

[~~(4)  a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the district; and~~

[~~(5)  yearly precipitation and production patterns.~~

[~~(c)  In developing the estimate of exempt use under Subsection (b)(2), the executive administrator shall solicit information from each applicable district~~].

SECTION 179.  Sections 36.114(a) and (b), Water Code, are amended to read as follows:

(a)  The groundwater management authority [~~district~~] by rule shall determine each activity regulated by the groundwater management authority [~~district~~] for which a permit or permit amendment is required. The district shall accept, process, and consider permits and permit amendments in accordance with the groundwater management authority's rules.

(b)  For each activity for which the groundwater management authority [~~district~~] determines a permit or permit amendment is required under Subsection (a), and that is not exempt from a hearing requirement under Section 36.1145, the groundwater management authority [~~district~~] by rule shall determine whether a hearing on the permit or permit amendment application is required.

SECTION 180.  Sections 36.1146(a) and (c), Water Code, are amended to read as follows:

(a)  If the holder of an operating permit, in connection with the renewal of a permit or otherwise, requests a change that requires an amendment to the permit under groundwater management authority [~~district~~] rules, the permit as it existed before the permit amendment process remains in effect until the later of:

(1)  the conclusion of the permit amendment or renewal process, as applicable; or

(2)  final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment.

(c)  A district may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with the groundwater management authority's [~~district's~~] rules. If a district initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

SECTION 181.  Sections 36.116(a), (d), and (e), Water Code, are amended to read as follows:

(a)  In order to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, a groundwater management authority [~~district~~] by rule may regulate:

(1)  the spacing of water wells by:

(A)  requiring all water wells to be spaced a  certain distance from property lines or adjoining wells;

(B)  requiring wells with a certain production capacity, pump size, or other characteristic related to the construction or operation of and production from a well to be spaced a certain distance from property lines or adjoining wells; or

(C)  imposing spacing requirements adopted by the board of the groundwater management authority; and

(2)  the production of groundwater by:

(A)  setting production limits on wells;

(B)  limiting the amount of water produced based on acreage or tract size;

(C)  limiting the amount of water that may be produced from a defined number of acres assigned to an authorized well site;

(D)  limiting the maximum amount of water that may be produced on the basis of acre-feet per acre or gallons per minute per well site per acre;

(E)  managed depletion; or

(F)  any combination of the methods listed above in Paragraphs (A) through (E).

(d)  For better management of the groundwater resources located in a groundwater management authority [~~district~~] or if a groundwater management authority [~~district~~] determines that conditions in or use of an aquifer differ substantially from one geographic area of the district to another, the groundwater management authority [~~district~~] may adopt different rules for:

(1)  each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the groundwater management authority [~~district~~]; or

(2)  each geographic area overlying an aquifer or subdivision of an aquifer located in whole or in part within the boundaries of the groundwater management authority [~~district~~].

(e)  In regulating the production of groundwater under Subsection (a)(2), a groundwater management authority [~~district~~]:

(1)  shall select a method that is appropriate based on the hydrogeological conditions of the aquifer or aquifers in the groundwater management authority [~~district~~]; and

(2)  may limit the amount of water produced based on contiguous surface acreage.

SECTION 182.  Sections 36.117(a), (b), (c), (d), (f), (g), and (h), Water Code, are amended to read as follows:

(a)  A groundwater management authority [~~district~~] by rule may provide an exemption from the groundwater management authority's [~~district's~~] requirement to obtain any permit required by this chapter or the groundwater management authority's [~~district's~~] rules.

(b)  Except as provided by this section, a groundwater management authority [~~district~~] shall provide an exemption from a [~~the~~] district requirement to obtain a permit for:

(1)  drilling or operating a well used solely for domestic use or for providing water for livestock or poultry if the well is:

(A)  located or to be located on a tract of land larger than 10 acres; and

(B)  drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2)  drilling a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with the drilling rig; or

(3)  drilling a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from the well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

(c)  A groundwater management authority [~~district~~] may not restrict the production of water from any well described by Subsection (b)(1).

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

(1)  the groundwater withdrawals that were exempted under Subsection (b)(1) are no longer used solely for domestic use or to provide water for livestock or poultry;

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

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

(f)  A groundwater management authority [~~district~~] may require compliance with the groundwater management authority's [~~district's~~] well spacing rules for the drilling of any well except a well exempted under Subsection (b)(3).

(g)  A groundwater management authority [~~district~~] may not deny an application for a permit to drill and produce water for hydrocarbon production activities if the application meets all applicable rules as promulgated by the groundwater management authority [~~district~~].

(h)  A groundwater management authority [~~district~~] shall require the owner of a water well to:

(1)  register the well in accordance with rules promulgated by the groundwater management authority [~~district~~]; and

(2)  equip and maintain the well to conform to the [~~district's~~] rules of the groundwater management authority requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

SECTION 183.  Sections 36.119(a), (b), and (g), Water Code, are amended to read as follows:

(a)  Drilling or operating a well or wells without a required permit or producing groundwater in violation of a groundwater management authority [~~district~~] rule adopted under Section 36.116(a)(2) is declared to be illegal, wasteful per se, and a nuisance.

(b)  Except as provided by this section, a landowner or other person who has a right to produce groundwater from land that is adjacent to the land on which a well or wells are drilled or operated without a required permit or permits or from which groundwater is produced in violation of a groundwater management authority [~~district~~] rule adopted under Section 36.116(a)(2), or who owns or otherwise has a right to produce groundwater from land that lies within one-half mile of the well or wells, may sue the owner of the well or wells in a court of competent jurisdiction to restrain or enjoin the illegal drilling, operation, or both.  The suit may be brought with or without the joinder of the district in which the well or wells are located.

(g)  Before filing a suit under Subsection (b) or (c), an aggrieved party must file a written complaint with the district having jurisdiction over the well or wells drilled or operated without a required permit or in violation of a groundwater management authority [~~district~~] rule. The district shall investigate the complaint and, after notice and hearing and not later than the 90th day after the date the written complaint was received by the district, the district shall determine, based on the evidence presented at the hearing, whether a groundwater management authority [~~district~~] rule has been violated. The aggrieved party may only file a suit under this section on or after the 91st day after the date the written complaint was received by the district.

SECTION 184.  Section 36.120, Water Code, is amended to read as follows:

Sec. 36.120.  INFORMATION. On request of the executive director or the executive administrator, the district and groundwater management authority shall make available information acquired [~~that it acquires~~] concerning the groundwater resources within its jurisdiction, and shall make that information available to each other. The district and groundwater management authority shall also provide information to the commission and Texas Water Development Board concerning its plans and activities in conserving and protecting groundwater resources. On request of a district or groundwater management authority, the executive director and the executive administrator shall provide information they acquire concerning the groundwater resources within the district's or authority's jurisdiction.

SECTION 185.  Section 36.121, Water Code, is amended to read as follows:

Sec. 36.121.  LIMITATION ON RULEMAKING POWER OF DISTRICTS AND AUTHORITIES OVER WELLS IN CERTAIN COUNTIES.  Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991, or a groundwater management authority, shall exempt from regulation under this chapter a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 121,000 or less and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 115,000 or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district or groundwater management authority may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's or authority's boundaries.

SECTION 186.  Sections 36.122(a), (c), (d), (f), and (g), Water Code, are amended to read as follows:

(a)  If an application for a permit or an amendment to a permit under Section 36.113 proposes the transfer of groundwater outside of a district's boundaries or to any person other than the owner of the land on which the well is located regardless of whether the transfer is inside or outside of the district, the district may add conditions to the permit in accordance with this section [~~also consider the provisions of this section in determining whether to grant or deny the permit or permit amendment~~].

(c)  The [~~Except as provided in Section 36.113(e), the~~] district may not impose more restrictive permit conditions on transporters than the district imposes on existing in-district users.

(d)  The district may impose a reasonable fee for processing an application under this section. The fee may not exceed fees that the district imposes for processing other applications under Section 36.113. [~~An application filed to comply with this section shall be considered and processed under the same procedures as other applications for permits under Section 36.113 and shall be combined with applications filed to obtain a permit for in-district water use under Section 36.113 from the same applicant.~~]

(f)  A district may grant a portion of its fee revenue to a county located within the district for use in public capital improvements relating to water development, including necessary road improvements related to the water development activity [~~In reviewing a proposed transfer of groundwater out of the district, the district shall consider:~~

[~~(1)  the availability of water in the district and in the proposed receiving area during the period for which the water supply is requested;~~

[~~(2)  the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the district; and~~

[~~(3)  the approved regional water plan and approved district management plan~~].

(g)  The district may not deny a permit based on the fact that the applicant seeks to transfer groundwater outside of the district [~~but may limit a permit issued under this section if conditions in Subsection (f) warrant the limitation, subject to Subsection (c)~~].

SECTION 187.  Section 36.123, Water Code, is amended to read as follows:

Sec. 36.123.  RIGHT TO ENTER LAND. (a) The directors, engineers, attorneys, agents, operators, and employees of a district, groundwater management authority, or water supply corporation may go on any land to inspect, make surveys, or perform tests to determine the condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the district, authority, or [~~the~~] water supply corporation.

(b)  District and groundwater management authority employees and agents are entitled to enter any public or private property within the boundaries of the district or adjacent to any reservoir or other property owned by the district or authority at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the district or authority. District or groundwater management authority employees or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

SECTION 188.  Section 36.124(a), Water Code, is amended to read as follows:

(a)  A governmental act or proceeding of a district or groundwater management authority is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if:

(1)  the third anniversary of the effective date of the act or proceeding has expired; and

(2)  a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that third anniversary.

SECTION 189.  Section 36.158, Water Code, is amended to read as follows:

Sec. 36.158.  GRANTS. A district or groundwater management authority may make or accept grants, gratuities, advances, or loans in any form to or from any source approved by its [~~the~~] board, including any governmental entity, and may enter into contracts, agreements, and covenants in connection with grants, gratuities, advances, or loans that the board considers appropriate.

SECTION 190.  Section 36.159, Water Code, is amended to read as follows:

Sec. 36.159.  GROUNDWATER [~~CONSERVATION DISTRICT~~] MANAGEMENT PLAN FUNDS. The Texas Water Development Board may allocate funds from the water assistance fund to a district or groundwater management authority to:

(1)  conduct initial data collections under this chapter;

(2)  develop and implement a long-term management plan under Section 36.1071; and

(3)  participate in regional water plans.

SECTION 191.  Section 36.160, Water Code, is amended to read as follows:

Sec. 36.160.  FUNDS. The Texas Water Development Board, the commission, the Parks and Wildlife Department, the Texas Agricultural Extension Service, and institutions of higher education may allocate funds to carry out the objectives of this chapter and Chapter 35, which include but are not limited to:

(1)  conducting initial and subsequent studies and surveys under Sections 36.106, 36.107, and 36.109;

(2)  providing appropriate education in affected areas identified in Section 35.007 relating to the problems and issues concerning water management that may arise;

(3)  processing priority groundwater management area evaluations under this chapter and Chapter 35;

(4)  providing technical and administrative assistance to newly created districts under this chapter and Chapter 35;

(5)  covering the costs of newspaper notices required under Sections 35.009 and 36.014 and failed elections in accordance with Sections 35.014(c), 36.017(h), and 36.019; and

(6)  providing for assistance from the Parks and Wildlife Department to the Texas Water Development Board, a groundwater management authority, or a district for the purpose of assessing fish and wildlife resource habitat needs as they may apply to overall management plan goals and objectives of the district.

SECTION 192.  Section 36.161(a), Water Code, is amended to read as follows:

(a)  The Texas Water Development Board may provide funds under Sections 36.159 and 36.160, Chapters 15, 16, and 17, and Subchapter L of this chapter to a district or groundwater management authority if the Texas Water Development Board determines that such funding will allow the district or authority to comply or continue to comply with provisions of this chapter.

SECTION 193.  Section 36.207, Water Code, is amended to read as follows:

Sec. 36.207.  USE OF FEES. A district may use funds obtained from administrative, production, or export fees collected under a special law governing the district or this chapter for any purpose consistent with the district's public purposes [~~approved management plan~~], including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies.

SECTION 194.  Section 36.251(b), Water Code, is amended to read as follows:

(b)  Only the district, the groundwater management authority in which the district exists, the applicant, and parties to a contested case hearing may participate in an appeal of a decision on the application that was the subject of that contested case hearing. An appeal of a decision on a permit application must include the applicant as a necessary party.

SECTION 195.  Subchapter B, Chapter 36, Water Code, is amended by adding Section 36.022 to read as follows:

Sec. 36.022.  NONDISCRIMINATION IN PERMITTING DECISIONS. Notwithstanding any provision in a special law governing a district, a district may not:

(1)  discriminate in any permitting decision, rule, or other action using historic or existing use as a criteria; or

(2)  prevent or limit exportation of water from the district.

SECTION 196.  Section 49.3189, Water Code, is amended to read as follows:

Sec. 49.3189.  CONVERSION OF WATER RIGHTS. After a district excludes land from the district's territory under this subchapter, the municipality or other municipal supplier that proposes to serve the land with a potable water supply may petition the district to convert the proportionate water rights previously allocated for the land from irrigation use rights to municipal use rights for the use and benefit of the municipality or other municipal supplier. The district shall compute the proportionate water rights available and shall initiate administrative proceedings to convert the irrigation use rights to municipal use rights. Before the district is obligated to initiate the administrative proceedings, the municipality or other municipal supplier must deposit with the district the amount that the district estimates the district will incur as reasonable expenses and attorney's fees in those proceedings. On approval of the conversion by the Texas Water Development Board [~~commission~~], the district shall deliver the water to the municipality or other municipal supplier in the manner those entities may agree to under this code.

SECTION 197.  Section 49.503(b), Water Code, is amended to read as follows:

(b)  A municipal water supplier that serves land described by Subsection (a) may petition the district in accordance with this section to convert the proportionate irrigation water right to the Rio Grande from irrigation use to municipal use with municipal priority of allocation under Texas Water Development Board [~~commission~~] rules, for the use and benefit of the municipal water supplier.

SECTION 198.  Sections 49.506(a) and (b), Water Code, are amended to read as follows:

(a)  Not later than the second anniversary of the date the municipal water supplier files a petition under Section 49.503:

(1)  a district shall provide the municipal water supplier with the proportionate water rights described by Section 49.505 from the district's existing water rights; or

(2)  a district shall, if the district does not have sufficient existing water rights:

(A)  apply for appropriate amendments to the district's water rights under Texas Water Development Board [~~commission~~] rules to convert the proportionate water rights from irrigation use to municipal use with municipal priority of allocation; and

(B)  provide to the municipal water supplier the converted rights described by Section 49.505.

(b)  The district may continue to use the irrigation use water for district purposes until:

(1)  the Texas Water Development Board [~~commission~~] approves the amendment to the district's water rights; or

(2)  the water is otherwise provided to the municipal water supplier.

SECTION 199.  Section 49.509(a), Water Code, is amended to read as follows:

(a)  Subject to Subsection (d), the Rio Grande Regional Water Authority annually at its January meeting shall calculate the current market value by using the average price per acre-foot of municipal use water after conversion from irrigation use water to municipal use water with a municipal priority of allocation under Texas Water Development Board [~~commission~~] rules of the last three purchases involving:

(1)  a municipal water supplier;

(2)  a party other than a municipal water supplier; and

(3)  at least 100 acre-feet of municipal use water, with municipal priority of allocation.

SECTION 200.  Section 51.852, Water Code, is amended to read as follows:

Sec. 51.852.  COOPERATION WITH TEXAS WATER DEVELOPMENT BOARD, AUTHORITY, CORPS OF ENGINEERS, AND OTHER OWNERS. The commission, in conjunction with the Texas Water Development Board, the authority, the United States Army Corps of Engineers, and other reservoir owners in the Trinity River basin, shall develop and implement a coordinated basinwide water release program for flood routing and control.

SECTION 201.  Section 51.853, Water Code, is amended to read as follows:

Sec. 51.853.  COOPERATION WITH TEXAS WATER DEVELOPMENT BOARD, AUTHORITY, AND OWNERS. The commission, in conjunction with the Texas Water Development Board, the authority, and all reservoir owners in the Trinity River basin, may review, at least every 10 years, all water rights permits affecting the basin.

SECTION 202.  Section 51.854, Water Code, is amended to read as follows:

Sec. 51.854.  FLOOD WARNING SYSTEM. The commission, the Texas Water Development Board, and the authority, in conjunction with affected political subdivisions, shall develop a basinwide flood warning system to alert the public and local officials of imminent flooding in order to effectuate orderly withdrawal from floodplains and to institute other appropriate precautions.

SECTION 203.  Sections 55.193(a), (b), and (d), Water Code, are amended to read as follows:

(a)  Any district which has a permit issued by the Texas Water Development Board [~~commission~~] to construct a reservoir and to appropriate water from a stream or watershed for irrigation or other purposes may convey to another district an interest in the reservoir or water rights.

(b)  The conveyance shall be recorded in the office of the county clerk of the county in which the property is located and in the office of the executive administrator of the Texas Water Development Board [~~director~~].

(d)  After the conveyance is filed in the office of the executive administrator of the Texas Water Development Board [~~director~~], the rights conveyed vest in the district to which the conveyance was made as if the rights were granted directly by the Texas Water Development Board [~~commission~~].

SECTION 204.  Section 55.198, Water Code, is amended to read as follows:

Sec. 55.198.  PUMPING AND DELIVERING WATER TO LAND NEAR DISTRICT. The district may enter into a contract with a person who owns or uses land in the vicinity of the district and who has a permit from the Texas Water Development Board [~~commission~~] to appropriate water for use in irrigation or for domestic or commercial uses to pump or deliver the water to the person's land.

SECTION 205.  Section 58.180, Water Code, is amended to read as follows:

Sec. 58.180.  AMENDMENTS TO WATER RIGHTS.  The board may apply to the Texas Water Development Board [~~commission~~] to amend its water rights as provided by Section 11.122 [~~of this code~~] and the rules of the Texas Water Development Board [~~commission~~].

SECTION 206.  Section 580.001, Local Government Code, is amended to read as follows:

Sec. 580.001.  WATER CONTRACTS IN BORDER MUNICIPALITIES AND COUNTIES. The governing body of a municipality or county that has a boundary that is contiguous with the border between this state and the Republic of Mexico may contract for the acquisition of water or water rights with a border municipality or state in the Republic of Mexico if the contract is approved and monitored by the Texas Water Development Board [~~Natural Resource Conservation Commission~~] and the International Boundary and Water Commission, United States and Mexico.

SECTION 207.  Section 111.0192(a), Natural Resources Code, is amended to read as follows:

(a)  The right of eminent domain granted under this chapter to any pipelines transporting coal in whatever form shall not include and cannot be used to condemn water or water rights for use in the transportation of coal by pipeline, and no Texas water from any source shall be used in connection with the transportation, maintenance, or operation of a coal slurry pipeline (except water used for drinking, toilet, bath, or other personal uses at pumping stations or offices) within the State of Texas unless the Texas Water Development Board [~~Natural Resource Conservation Commission~~] shall determine, after public hearing, that the use will not be detrimental to the water supply of the area from which the water is sought to be extracted.

SECTION 208.  Section 111.305, Natural Resources Code, is amended to read as follows:

Sec. 111.305.  OTHER AGENCIES. (a) The commission shall seek and act on the recommendations of the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality, the Governor's Energy Advisory Council, or their successors responsible for environmental determinations and shall specify the proper use and disposal of nondischargeable water.

(b)  Neither the authority conveyed to the commission by this subchapter to issue certificates and to promulgate rules governing pipelines transporting coal in whatever form nor the powers and duties conveyed on those pipelines by this chapter shall affect, diminish, or otherwise limit the jurisdiction and authority of the Texas Water Development Board and the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality to regulate by applicable rules the acquisition, use, control, disposition, and discharge of water or water rights in Texas.

SECTION 209.  Section 22.022(b), Parks and Wildlife Code, is amended to read as follows:

(b)  Improvements may include the construction of dams to impound water to form a lake or lakes for recreational and other conservation purposes within the park. Before constructing any dam or lake, the commission must obtain permits required by law from the Texas Water Development Board [~~Rights Commission~~].

SECTION 210.  Section 22.072, Parks and Wildlife Code, is amended to read as follows:

Sec. 22.072.  PERMIT FOR DAM. A dam may not be constructed until a permit has been obtained from the Texas Water Development Board [~~Rights Commission~~].

SECTION 211.  Section 8104.206, Special District Local Laws Code, is amended to read as follows:

Sec. 8104.206.  ACQUISITION OF WATER RIGHTS NOT PREVENTED. This chapter does not prevent the authority from acquiring water rights under any law or permit if the acquisition is approved by order or later permit from the Texas Water Development Board [~~Commission on Environmental Quality~~].

SECTION 212.  The following provisions of the Water Code are repealed:

(1)  Section 5.506;

(2)  Sections 5.701(c), (h), (i), (j), (k), (l), (m), and (o);

(3)  Section 11.030;

(4)  Sections 11.085(t) and (u);

(5)  Sections 11.202(d) and (e);

(6)  Section 11.301;

(7)  Section 11.302;

(8)  Section 11.303;

(9)  Section 11.304;

(10)  Section 11.305;

(11)  Section 11.306;

(12)  Section 11.307;

(13)  Section 11.308;

(14)  Section 11.309;

(15)  Section 11.310;

(16)  Section 11.311;

(17)  Section 11.312;

(18)  Section 11.313;

(19)  Section 11.314;

(20)  Section 11.315;

(21)  Section 11.316;

(22)  Section 11.317;

(23)  Section 11.318;

(24)  Section 11.319;

(25)  Section 11.320;

(26)  Section 11.321;

(27)  Section 11.322;

(28)  Section 11.323;

(29)  Section 11.324;

(30)  Section 11.3271(j), as added by Chapter 281 (H.B. 2250), Acts of the 78th Legislature, Regular Session, 2003;

(31)  Section 11.551(2);

(32)  Section 16.012(f);

(33)  Section 35.004;

(34)  Section 36.001(13);

(35)  Section 36.014(b);

(36)  Section 36.108(d-4);

(37)  Sections 36.1083(q) and (r);

(38)  Section 36.113(e);

(39)  Section 36.116(b);

(40)  Sections 36.122(b), (h), (i), (j), (k), (m), (n), (o), and (p);

(41)  Section 36.301;

(42)  Section 36.3011;

(43)  Sections 36.302(c), (d), and (f); and

(44)  Section 55.001(4).

SECTION 213.  (a) In this section:

(1)  "Board" means the Texas Water Development Board.

(2)  "Commission" means the Texas Commission on Environmental Quality.

(b)  Not later than September 1, 2020, the board and the commission shall enter into a memorandum of understanding relating to the transfer of the administration of surface water rights permitting from the commission to the board. The memorandum of understanding must include a timetable and specific steps and methods for the transfer on January 1, 2021, of all powers, duties, obligations, rights, contracts, leases, records, assets, real or personal property, personnel, and unspent and unobligated appropriations and other funds that relate primarily to the administration of surface water rights permitting from the commission to the board.

(c)  On January 1, 2021:

(1)  all powers, duties, obligations, rights, contracts, leases, records, assets, real or personal property, personnel, and unspent and unobligated appropriations and other funds of the commission that relate primarily to the administration of surface water rights permitting are transferred to the board;

(2)  all rules, policies, forms, procedures, and decisions of the commission that relate primarily to the administration of surface water rights permitting are continued in effect as rules, policies, forms, procedures, and decisions of the board, until superseded by a rule or other appropriate action of the board; and

(3)  any investigation, complaint, action, contested case, or other proceeding involving the commission that relates primarily to the administration of surface water rights permitting is transferred without change in status to the board, and the board assumes, without a change in status, the position of the commission in any investigation, complaint, action, contested case, or other proceeding that relates primarily to the administration of surface water rights permitting involving the commission.

(d)  The transfer of the powers and duties of the commission that relate primarily to the administration of surface water rights permitting to the board does not affect the validity of a right, privilege, or obligation accrued, a permit or license issued, a penalty, forfeiture, or punishment assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by or in connection with the commission.

SECTION 214.  Nothing in this Act shall be construed to affect any existing surface water right, certificate of adjudication, certified filing, or other surface water quantity permit, or surface water priority.

SECTION 215.  A water contract entered into before the effective date of this Act under which groundwater is exported from a groundwater conservation district to another geographic area has a five-year exemption from a reduction in exports by a limitation imposed from a groundwater management authority, unless water availability is threatened or impaired for another well located within one mile from the well that is producing exported water.

SECTION 216.  (a) A fee established by Section 12.115, Water Code, as added by this Act, is due on October 1, 2022, for water sales occurring between September 1, 2021, and August 31, 2022.

(b)  Not later than January 1, 2021, the Texas Water Development Board shall designate groundwater management authorities as required by Section 35.052, Water Code, as added by this Act.

SECTION 217.  To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 218.  This Act takes effect September 1, 2019.