

By: Lucio III

H.B. No. 2851

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the consideration of modeled sustained groundwater
3 pumping in the adoption of desired future conditions in groundwater
4 conservation districts.

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

6 SECTION 1. Section 36.001, Water Code, is amended by adding
7 Subdivision (32) to read as follows:

8 (32) "Modeled sustained groundwater pumping" means
9 the maximum amount of groundwater that the executive administrator,
10 using the best available science, determines may be produced
11 annually in perpetuity from an aquifer.

12 SECTION 2. Section 36.108, Water Code, is amended by
13 amending Subsection (d) and adding Subsection (d-5) to read as
14 follows:

15 (d) Not later than May 1, 2021, and every five years
16 thereafter, the districts shall consider groundwater availability
17 models and other data or information for the management area and
18 shall propose for adoption desired future conditions for the
19 relevant aquifers within the management area. Before voting on the
20 proposed desired future conditions of the aquifers under Subsection
21 (d-2), the districts shall consider:

22 (1) aquifer uses or conditions within the management
23 area, including conditions that differ substantially from one
24 geographic area to another;

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

3 (3) hydrological conditions [~~including~~] for each
4 aquifer in the management area, including:

5 (A) the total estimated recoverable storage;

6 (B) if calculated by the executive
7 administrator, the modeled sustained groundwater pumping; [~~as~~
8 ~~provided by the executive administrator,~~] and

9 (C) the average annual recharge, inflows, and
10 discharge;

11 (4) other environmental impacts, including impacts on
12 spring flow and other interactions between groundwater and surface
13 water;

14 (5) the impact on subsidence;

15 (6) socioeconomic impacts reasonably expected to
16 occur;

17 (7) the impact on the interests and rights in private
18 property, including ownership and the rights of management area
19 landowners and their lessees and assigns in groundwater as
20 recognized under Section 36.002;

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

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

25 (d-5) Notwithstanding Subsection (d)(3), the executive
26 administrator may not calculate the modeled sustained groundwater
27 pumping for an aquifer or an aquifer that wholly or partly underlies

1 an aquifer with a recharge rate such that an owner of land that
2 overlies the aquifer qualifies or has previously qualified under
3 federal tax law for a cost depletion deduction for the groundwater
4 withdrawn from the aquifer for irrigation purposes.

5 SECTION 3. This Act takes effect September 1, 2021.