

By: Lucio III

H.B. No. 2851

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the consideration of modeled sustainable 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 sustainable groundwater pumping" means  
9 the maximum amount of groundwater that the executive administrator  
10 determines may be produced in perpetuity from an aquifer on an  
11 annual basis using the best available science.

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 the total estimated recoverable  
5 storage and modeled sustainable groundwater pumping as provided by  
6 the executive administrator, and the average annual recharge,  
7 inflows, and discharge;

8           (4) other environmental impacts, including impacts on  
9 spring flow and other interactions between groundwater and surface  
10 water;

11           (5) the impact on subsidence;

12           (6) socioeconomic impacts reasonably expected to  
13 occur;

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

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

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

22           (d-5) Notwithstanding Subsection (d)(3), the executive  
23 administrator may not calculate the modeled sustainable  
24 groundwater pumping for an aquifer located in a management area  
25 that wholly or partly overlies an aquifer with a recharge rate such  
26 that an owner of land that overlies the aquifer qualifies under  
27 federal tax law for a cost depletion deduction for the groundwater

1 withdrawn from the aquifer for irrigation purposes.

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