

1-1 By: Armbrister S.B. No. 3
1-2 (In the Senate - Filed April 4, 2005; April 4, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 26, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 0; April 26, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 3 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the development and management of the water resources
1-11 of the state, including the creation of a groundwater conservation
1-12 district; imposing fees and providing penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 ARTICLE 1. ENVIRONMENTAL FLOWS

1-15 SECTION 1.01. The heading to Section 5.506, Water Code, is
1-16 amended to read as follows:

1-17 Sec. 5.506. EMERGENCY SUSPENSION OF PERMIT CONDITION
1-18 RELATING TO, AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET
1-19 ASIDE FOR, BENEFICIAL INFLOWS TO AFFECTED BAYS AND ESTUARIES AND
1-20 INSTREAM USES.

1-21 SECTION 1.02. Section 5.506, Water Code, is amended by
1-22 adding Subsection (a-1) and amending Subsections (b) and (c) to
1-23 read as follows:

1-24 (a-1) State water that is set aside by the commission to
1-25 meet the needs for freshwater inflows to affected bays and
1-26 estuaries and instream uses under Section 11.1471(a)(2) may be made
1-27 available temporarily for other essential beneficial uses if the
1-28 commission finds that an emergency exists that cannot practically
1-29 be resolved in another way.

1-30 (b) The commission must give written notice of the proposed
1-31 action [~~suspension~~] to the Parks and Wildlife Department before the
1-32 commission suspends a permit condition under Subsection (a) or
1-33 makes water available temporarily under Subsection (a-1) [~~this~~
1-34 section]. The commission shall give the Parks and Wildlife
1-35 Department an opportunity to submit comments on the proposed action
1-36 [~~suspension~~] for a period of 72 hours from receipt of the notice and
1-37 must consider those comments before issuing an order implementing
1-38 the proposed action [~~imposing the suspension~~].

1-39 (c) The commission may suspend a permit condition under
1-40 Subsection (a) or make water available temporarily under Subsection
1-41 (a-1) [~~this section~~] without notice except as required by
1-42 Subsection (b).

1-43 SECTION 1.03. Subsection (j), Section 5.701, Water Code, is
1-44 amended to read as follows:

1-45 (j) The fee for other uses of water not specifically named
1-46 in this section is \$1 per acre-foot, except that no political
1-47 subdivision may be required to pay fees to use water for recharge of
1-48 underground freshwater-bearing sands and aquifers or for abatement
1-49 of natural pollution. A fee is not required for a water right that
1-50 is [~~This fee is waived for applications for instream-use water~~
1-51 rights] deposited into the Texas Water Trust.

1-52 SECTION 1.04. Section 11.002, Water Code, is amended by
1-53 adding Subdivisions (15), (16), (17), (18), and (19) to read as
1-54 follows:

1-55 (15) "Environmental flow analysis" means the
1-56 application of a scientifically derived process for predicting the
1-57 response of an ecosystem to changes in instream flows or freshwater
1-58 inflows.

1-59 (16) "Environmental flow regime" means a schedule of
1-60 flow quantities that reflects seasonal and yearly fluctuations that
1-61 typically would vary geographically, by specific location in a
1-62 watershed, and that are shown to be adequate to support a sound
1-63 ecological environment and to maintain the productivity, extent,

2-1 and persistence of key aquatic habitats in and along the affected
2-2 water bodies.

2-3 (17) "Environmental flow standards" means those
2-4 requirements adopted by the commission under Section 11.1471.

2-5 (18) "Flows commission" means the Environmental Flows
2-6 Commission.

2-7 (19) "Science advisory committee" means the Texas
2-8 Environmental Flows Science Advisory Committee.

2-9 SECTION 1.05. Subsection (a), Section 11.023, Water Code,
2-10 is amended to read as follows:

2-11 (a) To the extent that state water has not been set aside by
2-12 the commission under Section 11.1471(a)(2) to meet downstream
2-13 instream flow needs or freshwater inflow needs, state [State] water
2-14 may be appropriated, stored, or diverted for:

2-15 (1) domestic and municipal uses, including water for
2-16 sustaining human life and the life of domestic animals;

2-17 (2) agricultural uses and industrial uses, meaning
2-18 processes designed to convert materials of a lower order of value
2-19 into forms having greater usability and commercial value, including
2-20 the development of power by means other than hydroelectric;

2-21 (3) mining and recovery of minerals;

2-22 (4) hydroelectric power;

2-23 (5) navigation;

2-24 (6) recreation and pleasure;

2-25 (7) public parks; and

2-26 (8) game preserves.

2-27 SECTION 1.06. Section 11.0235, Water Code, is amended by
2-28 amending Subsections (c) and (e) and adding Subsections (d-1)
2-29 through (d-5), and (f) to read as follows:

2-30 (c) The legislature has expressly required the commission
2-31 while balancing all other public interests to consider and, to the
2-32 extent practicable, provide for the freshwater inflows and instream
2-33 flows necessary to maintain the viability of the state's streams,
2-34 rivers, and bay and estuary systems in the commission's regular
2-35 granting of permits for the use of state waters. As an essential
2-36 part of the state's environmental flows policy, all permit
2-37 conditions relating to freshwater inflows to affected bays and
2-38 estuaries and instream flow needs must be subject to temporary
2-39 suspension if necessary for water to be applied to essential
2-40 beneficial uses during emergencies.

2-41 (d-1) The legislature finds that to provide certainty in
2-42 water management and development and to provide adequate protection
2-43 of the state's streams, rivers, and bays and estuaries, the state
2-44 must have a process with specific timelines for prompt action to
2-45 address environmental flow issues in the state's major basin and
2-46 bay systems, especially those systems in which unappropriated water
2-47 is still available.

2-48 (d-2) The legislature finds that:

2-49 (1) in those basins in which water is available for
2-50 appropriation, the commission should establish an environmental
2-51 set-aside below which water should not be available for
2-52 appropriation; and

2-53 (2) in those basins in which the unappropriated water
2-54 that will be set aside for instream flow and freshwater inflow
2-55 protection is not sufficient to fully satisfy the environmental
2-56 flow standards established by the commission, a variety of
2-57 approaches, both public and private, for filling the gap must be
2-58 explored and pursued.

2-59 (d-3) The legislature finds that while the state has
2-60 pioneered tools to address freshwater inflow needs for bays and
2-61 estuaries, there are limitations to those tools in light of both
2-62 scientific and public policy evolution. To fully address bay and
2-63 estuary environmental flow issues, the foundation of work
2-64 accomplished by the state should be improved. While the state's
2-65 instream flow studies program appears to encompass a comprehensive
2-66 and scientific approach for establishing a process to assess
2-67 instream flow needs for rivers and streams across the state, more
2-68 extensive review and examination of the details of the program,
2-69 which may not be fully developed until the program is under way, are

3-1 needed to ensure an effective tool for evaluating riverine
3-2 environmental flow conditions.

3-3 (d-4) The legislature finds that the management of water to
3-4 meet instream flow and freshwater inflow needs should be evaluated
3-5 on a regular basis and adapted to reflect both improvements in
3-6 science related to environmental flows and future changes in
3-7 projected human needs for water. In addition, the development of
3-8 management strategies for addressing environmental flow needs
3-9 should be an ongoing, adaptive process that considers and addresses
3-10 local issues.

3-11 (d-5) The legislature finds that recommendations for state
3-12 action to protect instream flows and freshwater inflows should be
3-13 developed through a consensus-based, regional approach involving
3-14 balanced representation of stakeholders and that such a process
3-15 should be encouraged throughout the state.

3-16 (e) The fact that greater pressures and demands are being
3-17 placed on the water resources of the state makes it of paramount
3-18 importance to ensure [~~reexamine the process for ensuring~~] that
3-19 these important priorities are effectively addressed by detailing
3-20 how environmental flow standards are to be developed using the
3-21 environmental studies that have been and are to be performed by the
3-22 state and others and specifying in clear delegations of authority
3-23 how those environmental flow standards will be integrated into the
3-24 regional water planning and water permitting process [~~to the~~
3-25 ~~commission~~].

3-26 (f) The legislature recognizes that effective
3-27 implementation of the approach provided by this chapter for
3-28 protecting instream flows and freshwater inflows will require more
3-29 effective water rights administration and enforcement systems than
3-30 are currently available in most areas of the state.

3-31 SECTION 1.07. The heading to Section 11.0236, Water Code,
3-32 is amended to read as follows:

3-33 Sec. 11.0236. [~~STUDY COMMISSION ON WATER FOR~~] ENVIRONMENTAL
3-34 FLOWS COMMISSION.

3-35 SECTION 1.08. Section 11.0236, Water Code, is amended by
3-36 amending Subsections (a), (b), (c), (e) through (j), (n), and (o)
3-37 and adding Subsection (p) to read as follows:

3-38 (a) In recognition of the importance that the ecological
3-39 soundness of our riverine, bay, and estuary systems and riparian
3-40 lands has on the economy, health, and well-being of the state there
3-41 is created the [~~Study Commission on Water for~~] Environmental Flows
3-42 Commission.

3-43 (b) The flows [~~study~~] commission is composed of nine [~~15~~]
3-44 members as follows:

3-45 (1) three [~~two~~] members appointed by the governor;
3-46 (2) three [~~five~~] members of the senate appointed by
3-47 the lieutenant governor; and

3-48 (3) three [~~five~~] members of the house of
3-49 representatives appointed by the speaker of the house of
3-50 representatives[+]

3-51 [~~(4) the presiding officer of the commission or the~~
3-52 ~~presiding officer's designee;~~

3-53 [~~(5) the chairman of the board or the chairman's~~
3-54 ~~designee; and~~

3-55 [~~(6) the presiding officer of the Parks and Wildlife~~
3-56 ~~Commission or the presiding officer's designee].~~

3-57 (c) Of the members appointed under Subsection (b)(1):

3-58 (1) one member must be a member of the commission;

3-59 (2) one member must be a member of the board; and

3-60 (3) one member must be a member of the Parks and
3-61 Wildlife Commission [~~(b)(2):~~

3-62 [~~(1) one member must represent a river authority or~~
3-63 ~~municipal water supply agency or authority;~~

3-64 [~~(2) one member must represent an entity that is~~
3-65 ~~distinguished by its efforts in resource protection; and~~

3-66 [~~(3) three members must be members of the senate].~~

3-67 (e) Each [~~appointed~~] member of the flows [~~study~~] commission
3-68 serves at the will of the person who appointed the member.

3-69 (f) The appointed senator with the most seniority and the

4-1 appointed house member with the most seniority serve together as
4-2 co-presiding officers of the flows [study] commission.

4-3 (g) A member of the flows [study] commission is not entitled
4-4 to receive compensation for service on the flows [study] commission
4-5 but is entitled to reimbursement of the travel expenses incurred by
4-6 the member while conducting the business of the flows [study]
4-7 commission, as provided by the General Appropriations Act.

4-8 (h) The flows [study] commission may accept gifts and grants
4-9 from any source to be used to carry out a function of the flows
4-10 [study] commission.

4-11 (i) The commission shall provide staff support for the flows
4-12 [study] commission.

4-13 (j) The flows [study] commission shall conduct public
4-14 hearings and study public policy implications for balancing the
4-15 demands on the water resources of the state resulting from a growing
4-16 population with the requirements of the riverine, bay, and estuary
4-17 systems including granting permits for instream flows dedicated to
4-18 environmental needs or bay and estuary inflows, use of the Texas
4-19 Water Trust, and any other issues that the flows [study] commission
4-20 determines have importance and relevance to the protection of
4-21 environmental flows. In evaluating the options for providing
4-22 adequate environmental flows, the flows [study] commission shall
4-23 take notice of the strong public policy imperative that exists in
4-24 this state recognizing that environmental flows are important to
4-25 the biological health of our public and private lands, streams and
4-26 rivers [parks, game preserves], and bay and estuary systems and are
4-27 high priorities in the water management [permitting] process. The
4-28 flows [study] commission shall specifically address:

4-29 (1) ways that the ecological soundness of those
4-30 [these] systems will be ensured in the water administration,
4-31 enforcement, and allocation process; and

4-32 (2) appropriate methods to encourage persons
4-33 voluntarily to convert reasonable amounts of existing water rights
4-34 to use for environmental flow protection temporarily or
4-35 permanently.

4-36 (n) The flows [study] commission may [shall] adopt rules,
4-37 procedures, and policies as needed to administer this section, to
4-38 implement its responsibilities, and to exercise its authority under
4-39 Sections 11.02361 and 11.02362.

4-40 (o) Chapter 2110, Government Code, does not apply to the
4-41 size, composition, or duration of the flows commission.

4-42 (p) Not later than December 1, 2006, and every two years
4-43 thereafter, the flows commission shall issue and promptly deliver
4-44 to the governor, lieutenant governor, and speaker of the house of
4-45 representatives copies of a report summarizing:

4-46 (1) any hearings conducted by the flows commission;

4-47 (2) any studies conducted by the flows commission;

4-48 (3) any legislation proposed by the flows commission;

4-49 (4) progress made in implementing Sections 11.02361
4-50 and 11.02362; and

4-51 (5) any other findings and recommendations of the
4-52 flows commission [The study commission is abolished and this
4-53 section expires September 1, 2005].

4-54 SECTION 1.09. Subchapter B, Chapter 11, Water Code, is
4-55 amended by adding Sections 11.02361 and 11.02362 to read as
4-56 follows:

4-57 Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE ADVISORY
4-58 COMMITTEE. (a) The Texas Environmental Flows Science Advisory
4-59 Committee consists of at least five but not more than nine members
4-60 appointed by the flows commission.

4-61 (b) The flows commission shall appoint to the science
4-62 advisory committee persons who will provide an objective
4-63 perspective and diverse technical expertise, including expertise
4-64 in hydrology, hydraulics, water resources, aquatic and terrestrial
4-65 biology, geomorphology, geology, water quality, computer modeling,
4-66 and other technical areas pertinent to the evaluation of
4-67 environmental flows.

4-68 (c) Members of the science advisory committee serve
4-69 five-year terms expiring March 1. A vacancy on the science advisory

5-1 committee is filled by appointment by the co-presiding officers of
 5-2 the flows commission for the unexpired term.

5-3 (d) Chapter 2110, Government Code, does not apply to the
 5-4 size, composition, or duration of the science advisory committee.

5-5 (e) The science advisory committee shall:

5-6 (1) serve as an objective scientific body to advise
 5-7 and make recommendations to the flows commission on issues relating
 5-8 to the science of environmental flow protection; and

5-9 (2) develop recommendations to help provide overall
 5-10 direction, coordination, and consistency relating to:

5-11 (A) environmental flow methodologies for bay and
 5-12 estuary studies and instream flow studies;

5-13 (B) environmental flow programs at the
 5-14 commission, the Parks and Wildlife Department, and the board; and

5-15 (C) the work of the basin and bay expert science
 5-16 teams described in Section 11.02362.

5-17 (f) To assist the flows commission to assess the extent to
 5-18 which the recommendations of the science advisory committee are
 5-19 considered and implemented, the commission, the Parks and Wildlife
 5-20 Department, and the board shall provide written reports to the
 5-21 flows commission, at intervals determined by the flows commission,
 5-22 that describe:

5-23 (1) the actions taken by each agency in response to
 5-24 each recommendation; and

5-25 (2) for each recommendation not implemented, the
 5-26 reason it was not implemented.

5-27 Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME
 5-28 RECOMMENDATIONS. (a) For the purposes of this section, the flows
 5-29 commission, not later than November 1, 2005, shall define the
 5-30 geographical extent of each river basin and bay system in this state
 5-31 for the sole purpose of developing environmental flow regime
 5-32 recommendations under this section and adoption of environmental
 5-33 flow standards under Section 11.1471.

5-34 (b) The flows commission shall give priority in descending
 5-35 order to the following river basin and bay systems of the state for
 5-36 the purpose of developing environmental flow regime
 5-37 recommendations and adopting environmental flow standards:

5-38 (1) the river basin and bay system consisting of the
 5-39 Trinity and San Jacinto Rivers and Galveston Bay and the river basin
 5-40 and bay system consisting of the Sabine and Neches Rivers and Sabine
 5-41 Lake Bay;

5-42 (2) the river basin and bay system consisting of the
 5-43 Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the
 5-44 river basin and bay system consisting of the Guadalupe, San
 5-45 Antonio, and Aransas Rivers and Copano, Aransas, and San Antonio
 5-46 Bays; and

5-47 (3) the river basin and bay system consisting of the
 5-48 Nueces River and Corpus Christi and Baffin Bays, the river basin and
 5-49 bay system consisting of the Rio Grande, the Rio Grande estuary, and
 5-50 the Lower Laguna Madre, and the Brazos River and its associated bay
 5-51 and estuary system.

5-52 (c) For the river basin and bay systems listed in Subsection
 5-53 (b)(1):

5-54 (1) the flows commission shall appoint the basin and
 5-55 bay area stakeholders committee not later than November 1, 2005;

5-56 (2) the basin and bay area stakeholders committee
 5-57 shall establish a basin and bay expert science team not later than
 5-58 March 1, 2006;

5-59 (3) the basin and bay expert science team shall
 5-60 finalize environmental flow regime recommendations and submit them
 5-61 to the basin and bay area stakeholders committee, the flows
 5-62 commission, and the commission not later than March 1, 2007;

5-63 (4) the basin and bay area stakeholders committee
 5-64 shall submit to the commission its comments on and recommendations
 5-65 regarding the basin and bay expert science team's recommended
 5-66 environmental flow regime not later than September 1, 2007; and

5-67 (5) the commission shall adopt the environmental flow
 5-68 standards as provided by Section 11.1471 not later than September
 5-69 1, 2008.

6-1 (d) The flows commission shall appoint the basin and bay
 6-2 area stakeholders committees for the river basin and bay systems
 6-3 listed in Subsection (b)(2) not later than September 1, 2006, and
 6-4 shall appoint the basin and bay area stakeholders committees for
 6-5 the river basin and bay systems listed in Subsection (b)(3) not
 6-6 later than September 1, 2007. The flows commission shall establish
 6-7 a schedule for the performance of the tasks listed in Subsections
 6-8 (c)(2)-(5) with regard to the river basin and bay systems listed in
 6-9 Subsections (b)(2) and (3) that will result in the adoption of
 6-10 environmental flow standards for that river basin and bay system by
 6-11 the commission as soon as is reasonably possible. Each basin and
 6-12 bay area stakeholders committee and basin and bay expert science
 6-13 team for a river basin and bay system listed in Subsection (b)(2) or
 6-14 (3) shall make recommendations to the flows commission with regard
 6-15 to the schedule applicable to that river basin and bay system. The
 6-16 flows commission shall consider the recommendations of the basin
 6-17 and bay area stakeholders committee and basin and bay expert
 6-18 science team as well as coordinate with, and give appropriate
 6-19 consideration to the recommendations of, the commission, the Parks
 6-20 and Wildlife Department, and the board in establishing the
 6-21 schedule.

6-22 (e) For a river basin and bay system or a river basin that
 6-23 does not have an associated bay system in this state not listed in
 6-24 Subsection (b), the flows commission shall establish a schedule for
 6-25 the development of environmental flow regime recommendations and
 6-26 the adoption of environmental flow standards. The flows commission
 6-27 shall develop the schedule in consultation with the commission, the
 6-28 Parks and Wildlife Department, the board, and the pertinent basin
 6-29 and bay area stakeholders committee and basin and bay expert
 6-30 science team. The flows commission may, on its own initiative or on
 6-31 request, modify a schedule established under this subsection to be
 6-32 more responsive to particular circumstances, local desires,
 6-33 changing conditions, or time-sensitive conflicts. This subsection
 6-34 does not prohibit, in a river basin and bay system for which the
 6-35 flows commission has not yet established a schedule for the
 6-36 development of environmental flow regime recommendations and the
 6-37 adoption of environmental flow standards, an effort to develop
 6-38 information on environmental flow needs and ways in which those
 6-39 needs can be met by a voluntary consensus-building process.

6-40 (f) The flows commission shall appoint a basin and bay area
 6-41 stakeholders committee for each river basin and bay system in this
 6-42 state for which a schedule for the development of environmental
 6-43 flow regime recommendations and the adoption of environmental flow
 6-44 standards is specified by or established under Subsection (c), (d),
 6-45 or (e). Chapter 2110, Government Code, does not apply to the size,
 6-46 composition, or duration of a basin and bay area stakeholders
 6-47 committee. Each committee must consist of at least 17 members. The
 6-48 members must represent appropriate stakeholders, including
 6-49 representatives of:

- 6-50 (1) agricultural water users;
- 6-51 (2) recreational water users, including coastal
 6-52 recreational anglers and businesses supporting water recreation;
- 6-53 (3) municipalities;
- 6-54 (4) soil and water conservation districts;
- 6-55 (5) industrial water users;
- 6-56 (6) commercial fishermen;
- 6-57 (7) public interest groups;
- 6-58 (8) regional water planning groups;
- 6-59 (9) groundwater conservation districts;
- 6-60 (10) river authorities and other conservation and
 6-61 reclamation districts with jurisdiction over surface water; and
- 6-62 (11) environmental interests.

6-63 (g) Members of a basin and bay area stakeholders committee
 6-64 serve five-year terms expiring March 1. If a vacancy occurs on a
 6-65 committee, the remaining members of the committee by majority vote
 6-66 shall appoint a member to serve the remainder of the unexpired term.

6-67 (h) Meetings of a basin and bay area stakeholders committee
 6-68 must be open to the public.

6-69 (i) Each basin and bay area stakeholders committee shall

7-1 establish a basin and bay expert science team for the river basin
7-2 and bay system for which the committee is established. The basin
7-3 and bay expert science team must be established not later than six
7-4 months after the date the basin and bay area stakeholders committee
7-5 is established. Chapter 2110, Government Code, does not apply to
7-6 the size, composition, or duration of a basin and bay expert science
7-7 team. Each basin and bay expert science team must be composed of
7-8 technical experts with special expertise regarding the river basin
7-9 and bay system or regarding the development of environmental flow
7-10 regimes. A person may serve as a member of more than one basin and
7-11 bay expert science team at the same time.

7-12 (j) The members of a basin and bay expert science team serve
7-13 five-year terms expiring April 1. A vacancy on a basin and bay
7-14 expert science team is filled by appointment by the pertinent basin
7-15 and bay area stakeholders committee to serve the remainder of the
7-16 unexpired term.

7-17 (k) The science advisory committee shall appoint one of its
7-18 members to serve as a liaison to each basin and bay expert science
7-19 team to facilitate coordination and consistency in environmental
7-20 flow activities throughout the state. The commission, the Parks
7-21 and Wildlife Department, and the board shall provide technical
7-22 assistance to each basin and bay expert science team, including
7-23 information about the studies conducted under Sections 16.058 and
7-24 16.059, and may serve as nonvoting members of the basin and bay
7-25 expert science team to facilitate the development of environmental
7-26 flow regime recommendations.

7-27 (l) Where reasonably practicable, meetings of a basin and
7-28 bay expert science team must be open to the public.

7-29 (m) Each basin and bay expert science team shall develop
7-30 environmental flow analyses and a recommended environmental flow
7-31 regime for the river basin and bay system for which the team is
7-32 established through a collaborative process designed to achieve a
7-33 consensus. In developing the analyses and recommendations, the
7-34 science team must consider all reasonably available science,
7-35 without regard to the need for the water for other uses, and the
7-36 science team's recommendations must be based solely on the best
7-37 science available.

7-38 (n) Each basin and bay expert science team shall submit its
7-39 environmental flow analyses and environmental flow regime
7-40 recommendations to the pertinent basin and bay area stakeholders
7-41 committee, the flows commission, and the commission in accordance
7-42 with the applicable schedule specified by or established under
7-43 Subsection (c), (d), or (e). The basin and bay area stakeholders
7-44 committee and the flows commission may not change the environmental
7-45 flow analyses or environmental flow regime recommendations of the
7-46 basin and bay expert science team.

7-47 (o) Each basin and bay area stakeholders committee shall
7-48 review the environmental flow analyses and environmental flow
7-49 regime recommendations submitted by the committee's basin and bay
7-50 expert science team and shall consider them in conjunction with
7-51 other factors, including the present and future needs for water for
7-52 other uses related to water supply planning in the pertinent river
7-53 basin and bay system. The basin and bay area stakeholders committee
7-54 shall develop recommendations regarding environmental flow
7-55 standards and strategies to meet the environmental flow standards
7-56 and submit those recommendations to the commission and to the flows
7-57 commission in accordance with the applicable schedule specified by
7-58 or established under Subsection (c), (d), or (e). In developing its
7-59 recommendations, the basin and bay area stakeholders committee
7-60 shall operate on a consensus basis to the maximum extent possible.

7-61 (p) In recognition of the importance of adaptive
7-62 management, after submitting its recommendations regarding
7-63 environmental flow standards and strategies to meet the
7-64 environmental flow standards to the commission, each basin and bay
7-65 area stakeholders committee, with the assistance of the pertinent
7-66 basin and bay expert science team, shall prepare and submit for
7-67 approval by the flows commission a work plan. The work plan must:

7-68 (1) establish a periodic review of the basin and bay
7-69 environmental flow analyses and environmental flow regime

8-1 recommendations, environmental flow standards, and strategies, to
 8-2 occur at least once every 10 years;

8-3 (2) prescribe specific monitoring, studies, and
 8-4 activities; and

8-5 (3) establish a schedule for continuing the validation
 8-6 or refinement of the basin and bay environmental flow analyses and
 8-7 environmental flow regime recommendations, the environmental flow
 8-8 standards adopted by the commission, and the strategies to achieve
 8-9 those standards.

8-10 (q) In accordance with the applicable schedule specified by
 8-11 or established under Subsection (c), (d), or (e), the flows
 8-12 commission, with input from the science advisory committee, shall
 8-13 review the environmental flow analyses and environmental flow
 8-14 regime recommendations submitted by each basin and bay expert
 8-15 science team. If appropriate, the flows commission shall submit
 8-16 comments on the analyses and recommendations to the commission for
 8-17 use by the commission in adopting rules under Section 11.1471.
 8-18 Comments must be submitted not later than six months after the date
 8-19 of receipt of the analyses and recommendations.

8-20 (r) In the event the commission, by permit or order, has
 8-21 established an estuary advisory council, that council may continue
 8-22 in full force and effect.

8-23 SECTION 1.10. Subsections (a) and (b), Section 11.0237,
 8-24 Water Code, are amended to read as follows:

8-25 (a) The commission may not issue a new permit for instream
 8-26 flows dedicated to environmental needs or bay and estuary inflows.
 8-27 The ~~[This section does not prohibit the]~~ commission may approve
 8-28 ~~[from issuing]~~ an application to amend ~~[amendment to]~~ an existing
 8-29 permit or certificate of adjudication to change the use to or add a
 8-30 use for instream flows dedicated to environmental needs or bay and
 8-31 estuary inflows.

8-32 (b) This section does not alter the commission's
 8-33 obligations under Section 11.042(b), 11.042(c), 11.046(b),
 8-34 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491,
 8-35 11.150, 11.152, 16.058, or 16.059.

8-36 SECTION 1.11. Subsection (b), Section 11.082, Water Code,
 8-37 is amended to read as follows:

8-38 (b) The state may recover the penalties prescribed in
 8-39 Subsection (a) ~~[of this section]~~ by suit brought for that purpose in
 8-40 a court of competent jurisdiction. The state may seek those
 8-41 penalties regardless of whether a watermaster has been appointed
 8-42 for the water division, river basin, or segment of a river basin
 8-43 where the unlawful use is alleged to have occurred.

8-44 SECTION 1.12. Section 11.0841, Water Code, is amended by
 8-45 adding Subsection (c) to read as follows:

8-46 (c) For purposes of this section, the Parks and Wildlife
 8-47 Department has:

8-48 (1) the rights of a holder of a water right that is
 8-49 held in the Texas Water Trust, including the right to file suit in a
 8-50 civil court to prevent the unlawful use of such a right;

8-51 (2) the right to act in the same manner that a holder
 8-52 of a water right may act to protect the holder's rights in seeking
 8-53 to prevent any person from appropriating water in violation of a
 8-54 set-aside established by the commission under Section 11.1471 to
 8-55 meet instream flow needs or freshwater inflow needs; and

8-56 (3) the right to file suit in a civil court to prevent
 8-57 the unlawful use of a set-aside established under Section 11.1471.

8-58 SECTION 1.13. Subsection (a), Section 11.0842, Water Code,
 8-59 is amended to read as follows:

8-60 (a) If a person violates this chapter, a rule or order
 8-61 adopted under this chapter or Section 16.236 ~~[of this code]~~, or a
 8-62 permit, certified filing, or certificate of adjudication issued
 8-63 under this chapter, the commission may assess an administrative
 8-64 penalty against that person as provided by this section. The
 8-65 commission may assess an administrative penalty for a violation
 8-66 relating to a water division or a river basin or segment of a river
 8-67 basin regardless of whether a watermaster has been appointed for
 8-68 the water division or river basin or segment of the river basin.

8-69 SECTION 1.14. Subsection (a), Section 11.0843, Water Code,

9-1 is amended to read as follows:

9-2 (a) Upon witnessing a violation of this chapter or a rule or
 9-3 order or a water right issued under this chapter, the executive
 9-4 director or a person designated by the executive director,
 9-5 including a watermaster or the watermaster's deputy, [as defined by
 9-6 commission rule,] may issue the alleged violator a field citation
 9-7 alleging that a violation has occurred and providing the alleged
 9-8 violator the option of either:

9-9 (1) without admitting to or denying the alleged
 9-10 violation, paying an administrative penalty in accordance with the
 9-11 predetermined penalty amount established under Subsection (b) [~~of~~
 9-12 ~~this section]~~ and taking remedial action as provided in the
 9-13 citation; or

9-14 (2) requesting a hearing on the alleged violation in
 9-15 accordance with Section 11.0842 [~~of this code~~].

9-16 SECTION 1.15. Subsection (b), Section 11.134, Water Code,
 9-17 is amended to read as follows:

9-18 (b) The commission shall grant the application only if:

9-19 (1) the application conforms to the requirements
 9-20 prescribed by this chapter and is accompanied by the prescribed
 9-21 fee;

9-22 (2) unappropriated water is available in the source of
 9-23 supply;

9-24 (3) the proposed appropriation:

9-25 (A) is intended for a beneficial use;

9-26 (B) does not impair existing water rights or
 9-27 vested riparian rights;

9-28 (C) is not detrimental to the public welfare;

9-29 (D) considers any applicable environmental flow
 9-30 standards established under Section 11.1471 and, if applicable, the
 9-31 assessments performed under Sections 11.147(d) and (e) and Sections
 9-32 11.150, 11.151, and 11.152; and

9-33 (E) addresses a water supply need in a manner
 9-34 that is consistent with the state water plan and the relevant
 9-35 approved regional water plan for any area in which the proposed
 9-36 appropriation is located, unless the commission determines that
 9-37 conditions warrant waiver of this requirement; and

9-38 (4) the applicant has provided evidence that
 9-39 reasonable diligence will be used to avoid waste and achieve water
 9-40 conservation as defined by [~~Subdivision (8)(B),]~~ Section
 9-41 11.002(8)(B) [11.002].

9-42 SECTION 1.16. Section 11.147, Water Code, is amended by
 9-43 amending Subsections (b), (d), and (e) and adding Subsections (e-1)
 9-44 and (e-2) to read as follows:

9-45 (b) In its consideration of an application for a permit to
 9-46 store, take, or divert water, the commission shall assess the
 9-47 effects, if any, of the issuance of the permit on the bays and
 9-48 estuaries of Texas. For permits issued within an area that is 200
 9-49 river miles of the coast, to commence from the mouth of the river
 9-50 thence inland, the commission shall include in the permit any
 9-51 conditions considered necessary to maintain freshwater inflows to
 9-52 any affected bay and estuary system, to the extent practicable when
 9-53 considering all public interests and the studies mandated by
 9-54 Section 16.058 as evaluated under Section 11.1491[, ~~those~~
 9-55 ~~conditions considered necessary to maintain beneficial inflows to~~
 9-56 ~~any affected bay and estuary system]~~.

9-57 (d) In its consideration of an application to store, take,
 9-58 or divert water, the commission shall include in the permit, to the
 9-59 extent practicable when considering all public interests, those
 9-60 conditions considered by the commission necessary to maintain
 9-61 existing instream uses and water quality of the stream or river to
 9-62 which the application applies. In determining what conditions to
 9-63 include in the permit under this subsection, the commission shall
 9-64 consider among other factors:

9-65 (1) the studies mandated by Section 16.059; and

9-66 (2) any water quality assessment performed under
 9-67 Section 11.150.

9-68 (e) The commission shall include in the permit, to the
 9-69 extent practicable when considering all public interests, those

10-1 conditions considered by the commission necessary to maintain fish
 10-2 and wildlife habitats. In determining what conditions to include
 10-3 in the permit under this subsection, the commission shall consider
 10-4 any assessment performed under Section 11.152.

10-5 (e-1) Any permit for a new appropriation of water or an
 10-6 amendment to an existing water right that increases the amount of
 10-7 water authorized to be stored, taken, or diverted must include a
 10-8 provision allowing the commission to adjust the conditions included
 10-9 in the permit or amended water right to provide for protection of
 10-10 instream flows or freshwater inflows. The commission shall adjust
 10-11 the conditions if the commission determines, through an expedited
 10-12 public comment process, that such an adjustment is appropriate to
 10-13 achieve compliance with applicable environmental flow standards
 10-14 adopted under Section 11.1471. The adjustment:

10-15 (1) in combination with any previous adjustments made
 10-16 under this subsection may not increase the amount of the
 10-17 pass-through or release requirement for the protection of instream
 10-18 flows or freshwater inflows by more than 12.5 percent of the
 10-19 annualized total of that requirement contained in the permit as
 10-20 issued or the water right as amended;

10-21 (2) must be based on appropriate consideration of the
 10-22 priority dates and diversion locations of any other water rights
 10-23 granted in the same river basin that are subject to adjustment under
 10-24 this subsection; and

10-25 (3) must be based on appropriate consideration of any
 10-26 voluntary contributions to the Texas Water Trust that contribute
 10-27 toward meeting the environmental flow standards. Any water right
 10-28 holder making such donation shall be entitled to appropriate credit
 10-29 of such benefits against adjustments of his water right pursuant to
 10-30 Subdivision (1).

10-31 (e-2) Notwithstanding Subsections (b)-(e), for the purpose
 10-32 of determining the environmental flow conditions necessary to
 10-33 maintain freshwater inflows to an affected bay and estuary system,
 10-34 existing instream uses and water quality of a stream or river, or
 10-35 fish and aquatic wildlife habitats, the commission shall apply any
 10-36 applicable environmental flow standard, including any
 10-37 environmental flow set-aside, adopted under Section 11.1471
 10-38 instead of considering the factors specified by those subsections.

10-39 SECTION 1.17. Subchapter D, Chapter 11, Water Code, is
 10-40 amended by adding Section 11.1471 to read as follows:

10-41 Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES.

10-42 (a) The commission by rule shall:

10-43 (1) adopt appropriate environmental flow standards
 10-44 for each river basin and bay system in this state that are adequate
 10-45 to support a sound ecological environment, to the maximum extent
 10-46 reasonable considering other public interests and other relevant
 10-47 factors;

10-48 (2) establish an amount of unappropriated water, if
 10-49 available, to be set aside to satisfy the environmental flow
 10-50 standards to the maximum extent reasonable when considering human
 10-51 water needs; and

10-52 (3) establish procedures for implementing an
 10-53 adjustment of the conditions included in a permit or an amended
 10-54 water right as provided by Section 11.147(e-1).

10-55 (b) In adopting environmental flow standards for a river
 10-56 basin and bay system under Subsection (a)(1), the commission shall
 10-57 consider:

10-58 (1) the definition of the geographical extent of the
 10-59 river basin and bay system adopted by the flows commission under
 10-60 Section 11.02362(a);

10-61 (2) the schedule for the adoption of environmental
 10-62 flow standards for the river basin and bay system established by the
 10-63 flows commission under Section 11.02362(d) or (e), if applicable;

10-64 (3) the environmental flow analyses and the
 10-65 recommended environmental flow regime developed by the applicable
 10-66 basin and bay expert science team under Section 11.02362(m);

10-67 (4) the recommendations regarding environmental flow
 10-68 standards and strategies to meet the flow standards developed by
 10-69 the applicable basin and bay area stakeholders committee under

11-1 Section 11.02362(o);

11-2 (5) the specific characteristics of the river basin
11-3 and bay system;

11-4 (6) economic factors;

11-5 (7) the human and other competing water needs in the
11-6 river basin and bay system;

11-7 (8) all reasonably available scientific information,
11-8 including any scientific information provided by the science
11-9 advisory committee; and

11-10 (9) any other appropriate information.

11-11 (c) Environmental flow standards adopted under Subsection
11-12 (a)(1) must consist of a schedule of flow quantities, reflecting
11-13 seasonal and yearly fluctuations that may vary geographically by
11-14 specific location in a river basin and bay system.

11-15 (d) As provided by Section 11.023, the commission may not
11-16 issue a permit for a new appropriation or an amendment to an
11-17 existing water right that increases the amount of water authorized
11-18 to be stored, taken, or diverted if the issuance of the permit or
11-19 amendment would impair an environmental flow set-aside established
11-20 under Subsection (a)(2). A permit for a new appropriation or an
11-21 amendment to an existing water right that increases the amount of
11-22 water authorized to be stored, taken, or diverted that is issued
11-23 after the adoption of an applicable environmental flow set-aside
11-24 must contain appropriate conditions to ensure protection of the
11-25 environmental flow set-aside.

11-26 (e) An environmental flow set-aside established under
11-27 Subsection (a)(2) must be assigned a priority date corresponding to
11-28 the date the commission receives environmental flow regime
11-29 recommendations from the applicable basin and bay expert science
11-30 team and be included in the appropriate water availability models
11-31 in connection with an application for a permit for a new
11-32 appropriation or for an amendment to an existing water right that
11-33 increases the amount of water authorized to be stored, taken, or
11-34 diverted.

11-35 (f) An environmental flow standard or environmental flow
11-36 set-aside adopted under Subsection (a) may be altered by the
11-37 commission in a rulemaking process undertaken in accordance with a
11-38 schedule established by the commission. The commission's schedule
11-39 may not provide for the rulemaking process to occur more frequently
11-40 than once every 10 years unless the applicable work plan approved by
11-41 the flows commission under Section 11.02362(p) provides for a
11-42 periodic review under that section to occur more frequently than
11-43 once every 10 years. In that event, the commission may provide for
11-44 the rulemaking process to be undertaken in conjunction with the
11-45 periodic review if the commission determines that schedule to be
11-46 appropriate.

11-47 SECTION 1.18. The heading to Section 11.148, Water Code, is
11-48 amended to read as follows:

11-49 Sec. 11.148. EMERGENCY SUSPENSION OF PERMIT CONDITIONS AND
11-50 EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR
11-51 ENVIRONMENTAL FLOWS.

11-52 SECTION 1.19. Section 11.148, Water Code, is amended by
11-53 adding Subsection (a-1) and amending Subsections (b) and (c) to
11-54 read as follows:

11-55 (a-1) State water that is set aside by the commission to
11-56 meet the needs for freshwater inflows to affected bays and
11-57 estuaries and instream uses under Section 11.1471(a)(2) may be made
11-58 available temporarily for other essential beneficial uses if the
11-59 commission finds that an emergency exists that cannot practically
11-60 be resolved in another way.

11-61 (b) Before the commission suspends a permit condition under
11-62 Subsection (a) or makes water available temporarily under
11-63 Subsection (a-1) [~~of this section~~], it must give written notice to
11-64 the Parks and Wildlife Department of the proposed action
11-65 [~~suspension~~]. The commission shall give the Parks and Wildlife
11-66 Department an opportunity to submit comments on the proposed action
11-67 [~~suspension~~] within 72 hours from such time and the commission
11-68 shall consider those comments before issuing its order implementing
11-69 the proposed action [~~imposing the suspension~~].

12-1 (c) The commission may suspend the permit condition under
 12-2 Subsection (a) or make water available temporarily under Subsection
 12-3 (a-1) without notice to any other interested party other than the
 12-4 Parks and Wildlife Department as provided by Subsection (b) [~~of~~
 12-5 this section]. However, all affected persons shall be notified
 12-6 immediately by publication, and a hearing to determine whether the
 12-7 suspension should be continued shall be held within 15 days of the
 12-8 date on which the order to suspend is issued.

12-9 SECTION 1.20. Subsection (a), Section 11.1491, Water Code,
 12-10 is amended to read as follows:

12-11 (a) The Parks and Wildlife Department and the commission
 12-12 shall have joint responsibility to review the studies prepared
 12-13 under Section 16.058 [~~of this code~~], to determine inflow conditions
 12-14 necessary for the bays and estuaries, and to provide information
 12-15 necessary for water resources management. Each agency shall
 12-16 designate an employee to share equally in the oversight of the
 12-17 program. Other responsibilities shall be divided between the Parks
 12-18 and Wildlife Department and the commission to maximize present
 12-19 in-house capabilities of personnel and to minimize costs to the
 12-20 state. Each agency shall have reasonable access to all information
 12-21 produced by the other agency. Publication of reports completed
 12-22 under this section shall be submitted for comment to [~~both~~] the
 12-23 commission, [~~and~~] the Parks and Wildlife Department, the flows
 12-24 commission, the science advisory committee, and any applicable
 12-25 basin and bay area stakeholders committee and basin and bay expert
 12-26 science team.

12-27 SECTION 1.21. Subsection (g), Section 11.329, Water Code,
 12-28 is amended to read as follows:

12-29 (g) The commission may not assess costs under this section
 12-30 against a holder of a non-priority hydroelectric right that owns or
 12-31 operates privately owned facilities that collectively have a
 12-32 capacity of less than two megawatts or against a holder of a water
 12-33 right placed in the Texas Water Trust for a term of at least 20
 12-34 years. [~~This subsection is not intended to affect in any way the~~
 12-35 ~~fees assessed on a water right holder by the commission under~~
 12-36 ~~Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular~~
 12-37 ~~Session, 1993. For purposes of Section 1.29(d), Chapter 626, Acts~~
 12-38 ~~of the 73rd Legislature, Regular Session, 1993, a holder of a~~
 12-39 ~~non-priority hydroelectric right that owns or operates privately~~
 12-40 ~~owned facilities that collectively have a capacity of less than two~~
 12-41 ~~megawatts shall be assessed fees at the same rate per acre-foot~~
 12-42 ~~charged to a holder of a non-priority hydroelectric right that owns~~
 12-43 ~~or operates privately owned facilities that collectively have a~~
 12-44 ~~capacity of more than two megawatts.]~~

12-45 SECTION 1.22. Subsection (e), Section 11.404, Water Code,
 12-46 is amended to read as follows:

12-47 (e) The court may not assess costs and expenses under this
 12-48 section against:

12-49 (1) a holder of a non-priority hydroelectric right
 12-50 that owns or operates privately owned facilities that collectively
 12-51 have a capacity of less than two megawatts; or

12-52 (2) a holder of a water right placed in the Texas Water
 12-53 Trust for a term of at least 20 years.

12-54 SECTION 1.23. Subchapter I, Chapter 11, Water Code, is
 12-55 amended by adding Section 11.4531 to read as follows:

12-56 Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For
 12-57 each river basin or segment of a river basin for which the executive
 12-58 director appoints a watermaster under this subchapter, the
 12-59 executive director shall appoint a watermaster advisory committee
 12-60 consisting of at least nine but not more than 15 members. A member
 12-61 of the advisory committee must be a holder of a water right or a
 12-62 representative of a holder of a water right in the river basin or
 12-63 segment of the river basin for which the watermaster is appointed.
 12-64 In appointing members to the advisory committee, the executive
 12-65 director shall consider:

12-66 (1) geographic representation;
 12-67 (2) amount of water rights held;
 12-68 (3) different types of holders of water rights and
 12-69 users, including water districts, municipal suppliers, irrigators,

13-1 and industrial users; and

13-2 (4) experience and knowledge of water management
13-3 practices.

13-4 (b) An advisory committee member is not entitled to
13-5 reimbursement of expenses or to compensation.

13-6 (c) An advisory committee member serves a two-year term
13-7 expiring August 31 of each odd-numbered year and holds office until
13-8 a successor is appointed.

13-9 (d) The advisory committee shall meet within 30 days after
13-10 the date the initial appointments have been made and shall select a
13-11 presiding officer to serve a one-year term. The committee shall
13-12 meet regularly as necessary.

13-13 (e) The advisory committee shall:

13-14 (1) make recommendations to the executive director
13-15 regarding activities of benefit to the holders of water rights in
13-16 the administration and distribution of water to holders of water
13-17 rights in the river basin or segment of the river basin for which
13-18 the watermaster is appointed;

13-19 (2) review and comment to the executive director on
13-20 the annual budget of the watermaster operation; and

13-21 (3) perform other advisory duties as requested by the
13-22 executive director regarding the watermaster operation or as
13-23 requested by holders of water rights and considered by the
13-24 committee to benefit the administration of water rights in the
13-25 river basin or segment of the river basin for which the watermaster
13-26 is appointed.

13-27 SECTION 1.24. Section 11.454, Water Code, is amended to
13-28 read as follows:

13-29 Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER.
13-30 Section 11.327 applies to the duties and authority of a watermaster
13-31 appointed for a river basin or segment of a river basin under this
13-32 subchapter in the same manner as that section applies to the duties
13-33 and authority of a watermaster appointed for a water division under
13-34 Subchapter G [~~A watermaster as the agent of the commission and under~~
13-35 ~~the executive director's supervision shall:~~

13-36 [~~(1) divide the water of the streams or other sources~~
13-37 ~~of supply of his segment or basin in accordance with the authorized~~
13-38 ~~water rights;~~

13-39 [~~(2) regulate or cause to be regulated the controlling~~
13-40 ~~works of reservoirs and diversion works in time of water shortage,~~
13-41 ~~as is necessary because of the rights existing in the streams of his~~
13-42 ~~segment or basin, or as is necessary to prevent the waste of water~~
13-43 ~~or its diversion, taking, storage, or use in excess of the~~
13-44 ~~quantities to which the holders of water rights are lawfully~~
13-45 ~~entitled; and~~

13-46 [~~(3) perform any other duties and exercise any~~
13-47 ~~authority directed by the commission].~~

13-48 SECTION 1.25. Section 11.455, Water Code, is amended to
13-49 read as follows:

13-50 Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER
13-51 [ASSESSMENTS]. (a) Section 11.329 applies to the payment of the
13-52 compensation and expenses of a watermaster appointed for a river
13-53 basin or segment of a river basin under this subchapter in the same
13-54 manner as that section applies to the payment of the compensation
13-55 and expenses of a watermaster appointed for a water division under
13-56 Subchapter G.

13-57 (b) The executive director shall deposit the assessments
13-58 collected under this section to the credit of the watermaster fund.

13-59 (c) Money deposited under this section to the credit of the
13-60 watermaster fund may be used only for the purposes specified by
13-61 Section 11.3291 with regard to the watermaster operation under this
13-62 subchapter with regard to which the assessments were collected [The
13-63 commission may assess the costs of the watermaster against all
13-64 persons who hold water rights in the river basin or segment of the
13-65 river basin under the watermaster's jurisdiction in accordance with
13-66 Section 11.329 of this code].

13-67 SECTION 1.26. Subchapter F, Chapter 15, Water Code, is
13-68 amended by adding Section 15.4063 to read as follows:

13-69 Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. The board may

14-1 authorize the use of money in the research and planning fund:

14-2 (1) to compensate the members of the Texas
 14-3 Environmental Flows Science Advisory Committee established under
 14-4 Section 11.02361 for attendance and participation at meetings of
 14-5 the committee and for transportation, meals, lodging, or other
 14-6 travel expenses associated with attendance at those meetings as
 14-7 provided by the General Appropriations Act;

14-8 (2) for contracts with cooperating state and federal
 14-9 agencies and universities and with private entities as necessary to
 14-10 provide technical assistance to enable the Texas Environmental
 14-11 Flows Science Advisory Committee and the basin and bay expert
 14-12 science teams established under Section 11.02362 to perform their
 14-13 statutory duties;

14-14 (3) to compensate the members of the expert science
 14-15 teams created pursuant to Section 11.02362(i) for attendance and
 14-16 participation at meetings of the teams and for transportation,
 14-17 meals, lodging, or other travel expenses associated with attendance
 14-18 at those meetings as provided by the General Appropriations Act;
 14-19 and

14-20 (4) for contracts with political subdivisions
 14-21 designated as representatives of stakeholder committees
 14-22 established pursuant to Section 11.02362 to fund all or part of the
 14-23 administrative expenses for conducting meetings of the stakeholder
 14-24 committee or the associated expert science team.

14-25 SECTION 1.27. Section 15.7031, Water Code, is amended by
 14-26 amending Subsection (c) and adding Subsection (e) to read as
 14-27 follows:

14-28 (c) The dedication of any water rights placed in trust must
 14-29 be reviewed and approved by the commission, in consultation with
 14-30 the board, ~~and~~ the Parks and Wildlife Department, and the
 14-31 Environmental Flows Commission. In addition, the Department of
 14-32 Agriculture and the basin and bay area stakeholders committee and
 14-33 basin and bay expert science team established under Section
 14-34 11.02362 for the river basin and bay system to which the water right
 14-35 pertains may provide input to the commission, as appropriate,
 14-36 during the review and approval process for dedication of water
 14-37 rights.

14-38 (e) While a water right is held in the trust, the water
 14-39 authorized for beneficial use under the terms of the water right is
 14-40 considered to be held for instream flows, water quality, fish and
 14-41 wildlife habitat, bay and estuary inflows, or other environmental
 14-42 uses without the need for a permit amendment. After the water right
 14-43 is withdrawn in whole or in part from the trust, the use of the water
 14-44 right or portion of the water right withdrawn must be in accordance
 14-45 with the terms of the water right.

14-46 SECTION 1.28. Subsection (d), Section 16.059, Water Code,
 14-47 is amended to read as follows:

14-48 (d) The priority studies shall be completed not later than
 14-49 December 31, 2014 ~~[2010]~~. The Parks and Wildlife Department, the
 14-50 commission, and the board shall establish a work plan that
 14-51 prioritizes the studies and that sets interim deadlines providing
 14-52 for publication of flow determinations for individual rivers and
 14-53 streams on a reasonably consistent basis throughout the prescribed
 14-54 study period. Before publication, completed studies shall be
 14-55 submitted for comment to the commission, the board, and the Parks
 14-56 and Wildlife Department.

14-57 SECTION 1.29. Subsection (h), Section 26.0135, Water Code,
 14-58 as amended by Chapters 234 and 965, Acts of the 77th Legislature,
 14-59 Regular Session, 2001, is reenacted and amended to read as follows:

14-60 (h) The commission shall apportion, assess, and recover the
 14-61 reasonable costs of administering the water quality management
 14-62 programs under this section from users of water and wastewater
 14-63 permit holders in the watershed according to the records of the
 14-64 commission generally in proportion to their right, through permit
 14-65 or contract, to use water from and discharge wastewater in the
 14-66 watershed. Irrigation water rights, ~~and~~ non-priority
 14-67 hydroelectric rights of a water right holder that owns or operates
 14-68 privately owned facilities that collectively have a capacity of
 14-69 less than two megawatts, and water rights held in the Texas Water

15-1 Trust for terms of at least 20 years will not be subject to this
 15-2 assessment. The cost to river authorities and others to conduct
 15-3 water quality monitoring and assessment shall be subject to prior
 15-4 review and approval by the commission as to methods of allocation
 15-5 and total amount to be recovered. The commission shall adopt rules
 15-6 to supervise and implement the water quality monitoring,
 15-7 assessment, and associated costs. The rules shall ensure that
 15-8 water users and wastewater dischargers do not pay excessive
 15-9 amounts, that program funds are equitably apportioned among basins,
 15-10 that a river authority may recover no more than the actual costs of
 15-11 administering the water quality management programs called for in
 15-12 this section, and that no municipality shall be assessed cost for
 15-13 any efforts that duplicate water quality management activities
 15-14 described in Section 26.177 [~~of this chapter~~]. The rules
 15-15 concerning the apportionment and assessment of reasonable costs
 15-16 shall provide for a recovery of not more than \$5,000,000 annually.
 15-17 Costs recovered by the commission are to be deposited to the credit
 15-18 of the water resource management account and may be used only to
 15-19 accomplish the purposes of this section. The commission may apply
 15-20 not more than 10 percent of the costs recovered annually toward the
 15-21 commission's overhead costs for the administration of this section
 15-22 and the implementation of regional water quality assessments. The
 15-23 commission, with the assistance and input of each river authority,
 15-24 shall file a written report accounting for the costs recovered
 15-25 under this section with the governor, the lieutenant governor, and
 15-26 the speaker of the house of representatives on or before December 1
 15-27 of each even-numbered year.

15-28 SECTION 1.30. Subsections (d), (k), (l), and (m), Section
 15-29 11.0236, Subsection (c), Section 11.0237, and Subsection (b),
 15-30 Section 11.1491, Water Code, are repealed.

15-31 SECTION 1.31. The Study Commission on Water for
 15-32 Environmental Flows is abolished on the effective date of this Act.

15-33 SECTION 1.32. (a) The governor, lieutenant governor, and
 15-34 speaker of the house of representatives shall appoint the initial
 15-35 members of the Environmental Flows Commission as provided by
 15-36 Section 11.0236, Water Code, as amended by this article, as soon as
 15-37 practicable on or after the effective date of this Act.

15-38 (b) As soon as practicable after taking office, the initial
 15-39 members of the Environmental Flows Commission shall appoint the
 15-40 initial members of the Texas Environmental Flows Science Advisory
 15-41 Committee as provided by Section 11.02361, Water Code, as added by
 15-42 this article. The terms of the initial members of the committee
 15-43 expire March 1, 2010.

15-44 (c) The Environmental Flows Commission shall appoint the
 15-45 members of each basin and bay area stakeholders committee as
 15-46 provided by Section 11.02362, Water Code, as added by this article.
 15-47 The terms of the initial members of each committee expire March 1 of
 15-48 the fifth year that begins after the year in which the initial
 15-49 appointments are made.

15-50 (d) Each basin and bay area stakeholders committee shall
 15-51 appoint the members of the basin and bay expert science team for the
 15-52 river basin and bay system for which the committee is established as
 15-53 provided by Section 11.02362, Water Code, as added by this article.
 15-54 The terms of the initial members of each team expire April 1 of the
 15-55 fifth year that begins after the year in which the initial
 15-56 appointments are made.

15-57 (e) The executive director of the Texas Commission on
 15-58 Environmental Quality shall appoint the members of the watermaster
 15-59 advisory committee under Section 11.4531, Water Code, as added by
 15-60 this article, for each river basin or segment of a river basin for
 15-61 which the executive director appoints a watermaster under
 15-62 Subchapter I, Chapter 11, Water Code. The terms of the initial
 15-63 members of each committee expire August 31 of the first
 15-64 odd-numbered year that begins after the year in which the initial
 15-65 appointments are made.

15-66 SECTION 1.33. The changes in law made by this article
 15-67 relating to a permit for a new appropriation of water or to an
 15-68 amendment to an existing water right that increases the amount of
 15-69 water authorized to be stored, taken, or diverted apply to a permit

16-1 or amendment for which an application is pending with the Texas
16-2 Commission on Environmental Quality on the effective date of this
16-3 article or is filed with the commission on or after that date.

16-4 ARTICLE 2. CONJUNCTIVE MANAGEMENT WATER POLICY

16-5 SECTION 2.01. Section 1.003, Water Code, is amended to read
16-6 as follows:

16-7 Sec. 1.003. PUBLIC POLICY. It is the public policy of the
16-8 state to provide for the conservation and development of the
16-9 state's natural resources, including:

16-10 (1) the control, storage, preservation, and
16-11 distribution of the state's storm and floodwaters and the waters of
16-12 its rivers and streams for irrigation, power, and other useful
16-13 purposes;

16-14 (2) the reclamation and irrigation of the state's
16-15 arid, semiarid, and other land needing irrigation;

16-16 (3) the reclamation and drainage of the state's
16-17 overflowed land and other land needing drainage;

16-18 (4) the conservation and development of its forest,
16-19 water, and hydroelectric power;

16-20 (5) the navigation of the state's inland and coastal
16-21 waters; ~~and~~

16-22 (6) the maintenance of a proper ecological environment
16-23 of the bays and estuaries of Texas and the health of related living
16-24 marine resources; and

16-25 (7) the stewardship of public and private lands to
16-26 benefit waters of the state.

16-27 SECTION 2.02. Subchapter A, Chapter 1, Water Code, is
16-28 amended by adding Section 1.004 to read as follows:

16-29 Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.

16-30 (a) The legislature finds that responsible land stewardship
16-31 enhances the efficiency and effectiveness of this state's
16-32 watersheds by helping to increase surface water and groundwater
16-33 supplies, resulting in a benefit to the natural resources of this
16-34 state and to the general public. It is therefore the policy of this
16-35 state to encourage responsible land stewardship as a significant
16-36 water management tool.

16-37 (b) "Land stewardship," as used in this code, is the
16-38 practice of managing land to conserve or enhance suitable
16-39 landscapes and the ecosystem values of the land. Land stewardship
16-40 includes land and habitat management, wildlife conservation, and
16-41 watershed protection. Land stewardship practices include runoff
16-42 reduction, prescribed burning, managed grazing, brush management,
16-43 erosion management, reseeding with native plant species, riparian
16-44 management and restoration, and spring and creek-bank protection,
16-45 all of which benefit the water resources of this state.

16-46 SECTION 2.03. Section 11.002, Water Code, is amended by
16-47 adding Subdivisions (19) and (20) to read as follows:

16-48 (19) "Best management practices" means those
16-49 voluntary efficiency measures that save a quantifiable amount of
16-50 water, either directly or indirectly, and that can be implemented
16-51 within a specified time frame.

16-52 (20) "Conjunctive use" means the use of different
16-53 water resources in a combination that encourages the most efficient
16-54 and effective uses of those resources and optimizes the beneficial
16-55 characteristics of each resource. Water resources for conjunctive
16-56 use include surface water, groundwater, desalinated surface water
16-57 or groundwater, and water available for reuse.

16-58 SECTION 2.04. Subsection (b), Section 11.0235, Water Code,
16-59 is amended to read as follows:

16-60 (b) Maintaining the biological soundness of the state's
16-61 rivers, lakes, bays, and estuaries is of great importance to the
16-62 public's economic health and general well-being. The legislature
16-63 encourages responsible water and land stewardship to benefit waters
16-64 of the state.

16-65 SECTION 2.05. Section 11.024, Water Code, is amended to
16-66 read as follows:

16-67 Sec. 11.024. APPROPRIATION: PREFERENCES. (a) In order to
16-68 conserve and properly utilize state water, the public welfare
16-69 requires not only recognition of beneficial uses but also a

17-1 constructive public policy regarding the preferences between these
 17-2 uses, and it is therefore declared to be the public policy of this
 17-3 state that in appropriating state water preference shall be given
 17-4 to the following uses in the order named:

17-5 (1) domestic and municipal uses, including water for
 17-6 sustaining human life and the life of domestic animals, it being the
 17-7 public policy of the state and for the benefit of the greatest
 17-8 number of people that in the appropriation of water as herein
 17-9 defined, the appropriation of water for domestic and municipal uses
 17-10 shall be and remain superior to the rights of the state to
 17-11 appropriate the same for all other purposes;

17-12 (2) agricultural uses and industrial uses, which means
 17-13 processes designed to convert materials of a lower order of value
 17-14 into forms having greater usability and commercial value, including
 17-15 the development of power by means other than hydroelectric;

17-16 (3) mining and recovery of minerals;

17-17 (4) hydroelectric power;

17-18 (5) navigation;

17-19 (6) recreation and pleasure; and

17-20 (7) other beneficial uses.

17-21 (b) In considering requests for appropriation of state
 17-22 water for the same beneficial use, the commission shall give
 17-23 preference to those projects that involve conjunctive use, if
 17-24 conjunctive use is available, reasonable, and cost-effective.

17-25 SECTION 2.06. Section 11.046, Water Code, is amended by
 17-26 adding Subsection (e) to read as follows:

17-27 (e) Water appropriated under a permit, certified filing, or
 17-28 certificate of adjudication that is treated under a permit issued
 17-29 under Chapter 26 and then injected into an aquifer for storage and
 17-30 subsequent recovery for beneficial use is not considered surplus
 17-31 for purposes of this chapter.

17-32 SECTION 2.07. Subchapter D, Chapter 11, Water Code, is
 17-33 amended by adding Section 11.1502 to read as follows:

17-34 Sec. 11.1502. CONSIDERATION OF CONJUNCTIVE USE. In
 17-35 considering an application for a permit to store, take, or divert
 17-36 surface water, the commission shall consider whether the applicant
 17-37 has made reasonable efforts to incorporate plans for conjunctive
 17-38 use, if conjunctive use is available, reasonable, and
 17-39 cost-effective.

17-40 SECTION 2.08. Subsection (b), Section 11.173, Water Code,
 17-41 is amended to read as follows:

17-42 (b) A permit, certified filing, or certificate of
 17-43 adjudication or a portion of a permit, certified filing, or
 17-44 certificate of adjudication is exempt from cancellation under
 17-45 Subsection (a):

17-46 (1) to the extent of the owner's participation in the
 17-47 Conservation Reserve Program authorized by the Food Security Act,
 17-48 Pub. L. No. 99-198, Secs. 1231-1236, 99 Stat. 1354, 1509-1514
 17-49 (1985) or a similar governmental program;

17-50 (2) if a significant portion of the water authorized
 17-51 to be used pursuant to a permit, certified filing, or certificate of
 17-52 adjudication has been used in accordance with a specific
 17-53 recommendation for meeting a water need included in the regional
 17-54 water plan approved pursuant to Section 16.053;

17-55 (3) if the permit, certified filing, or certificate of
 17-56 adjudication:

17-57 (A) was obtained to meet demonstrated long-term
 17-58 public water supply or electric generation needs as evidenced by a
 17-59 water management plan developed by the holder; and

17-60 (B) is consistent with projections of future
 17-61 water needs contained in the state water plan; ~~or~~

17-62 (4) if the permit, certified filing, or certificate of
 17-63 adjudication was obtained as the result of the construction of a
 17-64 reservoir funded, in whole or in part, by the holder of the permit,
 17-65 certified filing, or certificate of adjudication as part of the
 17-66 holder's long-term water planning; or

17-67 (5) to the extent the nonuse resulted from the
 17-68 implementation of water conservation measures under a water
 17-69 conservation plan submitted by the holder of the permit, certified

18-1 filing, or certificate of adjudication as evidenced by
 18-2 implementation reports submitted by the holder.

18-3 SECTION 2.09. Subchapter E, Chapter 13, Water Code, is
 18-4 amended by adding Section 13.146 to read as follows:

18-5 Sec. 13.146. WATER CONSERVATION PLAN. The commission shall
 18-6 require a retail public utility that provides potable water service
 18-7 to a population of 3,300 or more to submit to the executive
 18-8 administrator of the board a water conservation plan based on
 18-9 specific targets and goals for water savings developed by the
 18-10 retail public utility and using appropriate best management
 18-11 practices, as defined by Section 11.002, or other water
 18-12 conservation strategies as determined by the retail public utility.
 18-13 For purposes of this section, the population served by a retail
 18-14 public utility shall be determined on the basis of the population
 18-15 estimates contained in the most recent regional water plan adopted
 18-16 for the regional water planning area in which the retail public
 18-17 utility's service area is located.

18-18 SECTION 2.10. Section 15.001, Water Code, is amended by
 18-19 adding Subdivision (14) to read as follows:

18-20 (14) "Conjunctive use" has the meaning assigned by
 18-21 Section 11.002.

18-22 SECTION 2.11. Subchapter A, Chapter 15, Water Code, is
 18-23 amended by adding Section 15.009 to read as follows:

18-24 Sec. 15.009. PRIORITY FOR CONJUNCTIVE USE APPLICATIONS. In
 18-25 its funding programs under this chapter, the board shall give
 18-26 priority to applications for planning funds and water supply
 18-27 projects that promote conjunctive use, if conjunctive use is
 18-28 available, reasonable, and cost-effective. The board shall
 18-29 consider incentives for promoting conjunctive use, including low or
 18-30 zero interest rate loans.

18-31 SECTION 2.12. Subsection (b), Section 15.102, Water Code,
 18-32 is amended to read as follows:

18-33 (b) The loan fund may also be used by the board to provide:

18-34 (1) grants or loans for projects that include
 18-35 supplying water and wastewater services in economically distressed
 18-36 areas or nonborder colonias as provided by legislative
 18-37 appropriations, this chapter, and board rules, including projects
 18-38 involving retail distribution of those services; and

18-39 (2) grants for:

18-40 (A) projects for which federal grant funds are
 18-41 placed in the loan fund;

18-42 (B) projects, on specific legislative
 18-43 appropriation for those projects; or

18-44 (C) water conservation, desalination, brush
 18-45 control, weather modification, regionalization, conjunctive use
 18-46 projects, and projects providing regional water quality
 18-47 enhancement services as defined by board rule, including regional
 18-48 conveyance systems.

18-49 SECTION 2.13. Subchapter F, Chapter 15, Water Code, is
 18-50 amended by adding Section 15.4062 to read as follows:

18-51 Sec. 15.4062. FUNDING FOR GROUNDWATER MANAGEMENT
 18-52 COORDINATION. (a) The board may enter into a contract with a
 18-53 political subdivision designated as a representative of a
 18-54 groundwater management area council established under Section
 18-55 36.108 to pay from the research and planning fund all or part of the
 18-56 cost of performing the groundwater management area planning
 18-57 functions required of the groundwater management area council under
 18-58 Section 36.108.

18-59 (b) A political subdivision may submit, either individually
 18-60 or jointly with other political subdivisions, a written application
 18-61 to the board to request assistance paying for the planning
 18-62 functions required under Section 36.108.

18-63 (c) The application must be in the manner and form
 18-64 prescribed by board rules and include:

18-65 (1) the name of each political subdivision
 18-66 participating in the application;

18-67 (2) a citation to each law under which each political
 18-68 subdivision was created and is operating, including specific
 18-69 citation of any law providing authority to perform the functions

19-1 under Section 36.108;

19-2 (3) the amount of money being requested; and

19-3 (4) any other relevant information required by board
19-4 rules or specifically requested by the board.

19-5 (d) After providing notice of and conducting a hearing on
19-6 the application, the board may award the applicant the amount of
19-7 money the board considers necessary to perform the functions under
19-8 Section 36.108.

19-9 (e) If the board grants an application under this section
19-10 and awards money, the board shall enter into a contract with each
19-11 participating political subdivision that includes:

19-12 (1) a detailed statement of the purpose for which the
19-13 money is to be used;

19-14 (2) the total amount of the award to be paid by the
19-15 board from the research and planning fund; and

19-16 (3) any other terms and conditions required by board
19-17 rules or agreed to by the contracting parties.

19-18 (f) The board shall adopt rules establishing criteria for
19-19 making grants of money under this section that include:

19-20 (1) the relative need of the political subdivision for
19-21 the money;

19-22 (2) the legal authority of the political subdivision
19-23 to perform the duties required under the contract; and

19-24 (3) the degree to which groundwater management area
19-25 planning by each political subdivision for the groundwater
19-26 management area council will address the issues of groundwater
19-27 management in the groundwater management area.

19-28 (g) The board may not award money under this section if
19-29 existing information or data is sufficient for the performance of
19-30 functions under Section 36.108.

19-31 (h) The board shall require that information developed or
19-32 revised under a contract entered into under this section be made
19-33 available to the commission, the Department of Agriculture, and the
19-34 Parks and Wildlife Department.

19-35 SECTION 2.14. Subsection (a), Section 15.974, Water Code,
19-36 is amended to read as follows:

19-37 (a) The board may use the fund:

19-38 (1) to make loans to political subdivisions at or
19-39 below market interest rates for projects;

19-40 (2) to make grants, low-interest loans, or zero
19-41 interest loans to political subdivisions for projects to serve
19-42 areas outside metropolitan statistical areas in order to ensure
19-43 that the projects are implemented, for conjunctive use projects, or
19-44 for projects to serve economically distressed areas;

19-45 (3) to make loans at or below market interest rates for
19-46 planning and design costs, permitting costs, and other costs
19-47 associated with state or federal regulatory activities with respect
19-48 to a project;

19-49 (4) as a source of revenue or security for the payment
19-50 of principal and interest on bonds issued by the board if the
19-51 proceeds of the sale of the bonds will be deposited in the fund; and

19-52 (5) to pay the necessary and reasonable expenses of
19-53 the board in administering the fund.

19-54 SECTION 2.15. Section 16.001, Water Code, is amended by
19-55 adding Subdivision (13) to read as follows:

19-56 (13) "Conjunctive use" has the meaning assigned by
19-57 Section 11.002.

19-58 SECTION 2.16. Subchapter B, Chapter 16, Water Code, is
19-59 amended by adding Section 16.0122 to read as follows:

19-60 Sec. 16.0122. TECHNICAL ASSISTANCE FOR GROUNDWATER
19-61 MANAGEMENT AREAS. For each groundwater management area established
19-62 under Section 35.007, the executive administrator shall provide one
19-63 or more employees of the board to assist the groundwater management
19-64 area council and the districts in the council's groundwater
19-65 management area. The employees shall provide assistance:

19-66 (1) training district employees or the district board
19-67 on basic data collection protocols;

19-68 (2) collecting and interpreting data;

19-69 (3) providing technical services or expertise;

- 20-1 (4) conducting hydrogeologic investigations;
- 20-2 (5) providing groundwater availability modeling;
- 20-3 (6) developing a district's groundwater management
- 20-4 plan;
- 20-5 (7) preparing for or conducting a joint planning
- 20-6 effort for districts in a groundwater management area or for a
- 20-7 district and a regional water planning group established under
- 20-8 Section 16.053, including assistance in avoiding and resolving
- 20-9 conflicts; and
- 20-10 (8) providing education.

20-11 SECTION 2.17. Section 16.022, Water Code, is amended to
 20-12 read as follows:

20-13 Sec. 16.022. WATER CONSERVATION MONITORING; REPORT
 20-14 [STUDY]. (a) The board [~~and the State Soil and Water Conservation~~
 20-15 ~~Board]~~ shall:

- 20-16 (1) monitor trends in water conservation
- 20-17 implementation;
- 20-18 (2) monitor new technologies for possible inclusion by
- 20-19 the board and commission in updating water conservation programs
- 20-20 that suggest best management practices under Section 11.1271(e);
- 20-21 (3) monitor the effectiveness of the statewide water
- 20-22 conservation public awareness program developed under Section
- 20-23 16.401 and associated local involvement in implementation of the
- 20-24 program;
- 20-25 (4) monitor the implementation of water conservation
- 20-26 strategies by water users included in regional water plans; and
- 20-27 (5) monitor target and goal guidelines for water
- 20-28 conservation to be considered by the board and the commission under
- 20-29 Section 11.1271(d).

20-30 (b) Not later than December 1 of each even-numbered year,
 20-31 the board shall submit to the governor, lieutenant governor, and
 20-32 speaker of the house of representatives a report on the progress
 20-33 made in water conservation in this state [~~jointly conduct a study of~~
 20-34 ~~the ways to improve or expand water conservation efforts and report~~
 20-35 ~~to the legislature].~~

- 20-36 ~~[(b) The report must include:~~
- 20-37 ~~[(1) an assessment of both agricultural and municipal~~
- 20-38 ~~water conservation issues;~~
- 20-39 ~~[(2) information on existing conservation efforts by~~
- 20-40 ~~the board and the State Soil and Water Conservation Board;~~
- 20-41 ~~[(3) information on existing conservation efforts by~~
- 20-42 ~~municipalities receiving funding from the board, as specified in~~
- 20-43 ~~water conservation plans submitted by the municipalities as part of~~
- 20-44 ~~their applications for assistance;~~
- 20-45 ~~[(4) a discussion of future conservation needs;~~
- 20-46 ~~[(5) an analysis of programmatic approaches and~~
- 20-47 ~~funding for additional conservation efforts;~~
- 20-48 ~~[(6) an assessment of existing statutory authority and~~
- 20-49 ~~whether changes are needed to more effectively promote and fund~~
- 20-50 ~~conservation projects; and~~
- 20-51 ~~[(7) an assessment of the board's agricultural water~~
- 20-52 ~~conservation program.~~

20-53 ~~[(c) The report shall be issued as part of, or as a~~
 20-54 ~~supplement to, the state water plan.]~~

20-55 SECTION 2.18. Section 16.053, Water Code, is amended by
 20-56 adding Subsection (d-1) and amending Subsection (e) to read as
 20-57 follows:

20-58 (d-1) The applicable groundwater management area councils
 20-59 shall provide to each regional water planning group and the board
 20-60 their adopted estimates of the amount of managed available
 20-61 groundwater in each applicable groundwater management area.

20-62 (e) Each regional water planning group shall submit to the
 20-63 board a regional water plan that:

- 20-64 (1) is consistent with the guidance principles for the
- 20-65 state water plan adopted by the board under Section 16.051(d);
- 20-66 (2) provides information based on data provided or
- 20-67 approved by the board in a format consistent with the guidelines
- 20-68 provided by the board under Subsection (d);
- 20-69 (3) identifies:

21-1 (A) each source of water supply in the regional
 21-2 water planning area, including information supplied by the
 21-3 applicable groundwater management area councils under Subsection
 21-4 (d-1) on the amount of managed available groundwater in the
 21-5 applicable groundwater management areas, in accordance with the
 21-6 guidelines provided by the board under Subsections (d) and (f);

21-7 (B) factors specific to each source of water
 21-8 supply to be considered in determining whether to initiate a
 21-9 drought response; and

21-10 (C) actions to be taken as part of the response;

21-11 (4) has specific provisions for water management
 21-12 strategies to be used during a drought of record;

21-13 (5) includes but is not limited to consideration of
 21-14 the following:

21-15 (A) any existing water or drought planning
 21-16 efforts addressing all or a portion of the region;

21-17 (B) approved [~~certified~~] groundwater
 21-18 conservation district management plans and other plans submitted
 21-19 under Section 16.054;

21-20 (C) all potentially feasible water management
 21-21 strategies, including but not limited to improved conservation,
 21-22 reuse, and management of existing water supplies, conjunctive use,
 21-23 acquisition of available existing water supplies, and development
 21-24 of new water supplies;

21-25 (D) protection of existing water rights in the
 21-26 region;

21-27 (E) opportunities for and the benefits of
 21-28 developing regional water supply facilities or providing regional
 21-29 management of water supply facilities;

21-30 (F) appropriate provision for environmental
 21-31 water needs and for the effect of upstream development on the bays,
 21-32 estuaries, and arms of the Gulf of Mexico and the effect of plans on
 21-33 navigation;

21-34 (G) provisions in Section 11.085(k)(1) if
 21-35 interbasin transfers are contemplated;

21-36 (H) voluntary transfer of water within the region
 21-37 using, but not limited to, regional water banks, sales, leases,
 21-38 options, subordination agreements, and financing agreements; and

21-39 (I) emergency transfer of water under Section
 21-40 11.139, including information on the part of each permit, certified
 21-41 filing, or certificate of adjudication for nonmunicipal use in the
 21-42 region that may be transferred without causing unreasonable damage
 21-43 to the property of the nonmunicipal water rights holder;

21-44 (6) identifies river and stream segments of unique
 21-45 ecological value and sites of unique value for the construction of
 21-46 reservoirs that the regional water planning group recommends for
 21-47 protection under Section 16.051;

21-48 (7) assesses the impact of the plan on unique river and
 21-49 stream segments identified in Subdivision (6) if the regional water
 21-50 planning group or the legislature determines that a site of unique
 21-51 ecological value exists; and

21-52 (8) describes the impact of proposed water projects on
 21-53 water quality.

21-54 SECTION 2.19. Subsection (h), Section 16.053, Water Code,
 21-55 is amended by adding Subdivisions (10), (11), and (12) to read as
 21-56 follows:

21-57 (10) The regional water planning group may amend the
 21-58 regional water plan after the plan has been approved by the board.
 21-59 Subdivisions (1)-(9) apply to an amendment to the plan in the same
 21-60 manner as those subdivisions apply to the plan.

21-61 (11) This subdivision applies only to an amendment to
 21-62 a regional water plan approved by the board. This subdivision does
 21-63 not apply to the adoption of a subsequent regional water plan for
 21-64 submission to the board as required by Subsection (i).
 21-65 Notwithstanding Subdivision (10), the regional water planning
 21-66 group may amend the plan in the manner provided by this subdivision
 21-67 if the executive administrator issues a written determination that
 21-68 the amendment qualifies for adoption in the manner provided by this
 21-69 subdivision before the regional water planning group votes on

22-1 adoption of the amendment. An amendment qualifies for adoption in
 22-2 the manner provided by this subdivision only if the amendment will
 22-3 not result in the overallocation of any existing or planned source
 22-4 of water, does not relate to a new reservoir, and will not have a
 22-5 significant effect on instream flows or freshwater inflows to bays
 22-6 and estuaries. If the executive administrator determines that an
 22-7 amendment qualifies for adoption in the manner provided by this
 22-8 subdivision, the regional water planning group may adopt the
 22-9 amendment at a public meeting held in accordance with Chapter 551,
 22-10 Government Code. The amendment must be placed on the agenda for the
 22-11 meeting, and notice of the meeting must be given in the manner
 22-12 provided by Chapter 551, Government Code, at least two weeks before
 22-13 the date the meeting is held. The public must be provided an
 22-14 opportunity to comment on the amendment at the meeting.

22-15 (12) Notwithstanding Subdivisions (10) and (11), a
 22-16 regional water planning group may revise a regional water plan
 22-17 approved by the board without complying with Subdivisions (1)-(9)
 22-18 or obtaining a determination from the executive administrator that
 22-19 the revision qualifies for adoption in the manner provided by
 22-20 Subdivision (11) if the revision consists only of substituting an
 22-21 alternative water management strategy previously evaluated in the
 22-22 planning process and already contained in the current regional
 22-23 water plan for a water management strategy recommended in the plan.
 22-24 The regional water planning group may adopt the revision to the
 22-25 regional water plan at a public meeting held in accordance with
 22-26 Chapter 551, Government Code.

22-27 SECTION 2.20. Section 16.131, Water Code, is amended to
 22-28 read as follows:

22-29 Sec. 16.131. AUTHORIZED PROJECTS. (a) The board may use
 22-30 the state participation account of the development fund to
 22-31 encourage optimum regional development of projects including the
 22-32 design, acquisition, lease, construction, reconstruction,
 22-33 development, or enlargement in whole or part of:

22-34 (1) reservoirs and storm water retention basins for
 22-35 water supply, flood protection, and groundwater recharge;

22-36 (2) facilities for the transmission and treatment of
 22-37 water; and

22-38 (3) treatment works as defined by Section 17.001 [~~of~~
 22-39 ~~this code~~].

22-40 (b) In its funding programs under this chapter, the board
 22-41 shall give priority to applications for water supply projects that
 22-42 promote conjunctive use, if conjunctive use is available,
 22-43 reasonable, and cost-effective. The board shall consider
 22-44 incentives for promoting conjunctive use, including low or zero
 22-45 interest rate loans.

22-46 SECTION 2.21. Chapter 16, Water Code, is amended by adding
 22-47 Subchapters K and L to read as follows:

22-48 SUBCHAPTER K. WATER CONSERVATION

22-49 Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS
 22-50 PROGRAM. The executive administrator shall develop and implement a
 22-51 statewide water conservation public awareness program to educate
 22-52 residents of this state about water conservation. The program
 22-53 shall take into account the differences in water conservation needs
 22-54 of various geographic regions of the state and shall be designed to
 22-55 complement and support existing local and regional water
 22-56 conservation programs.

22-57 Sec. 16.402. PROTECTION AND USE OF INTELLECTUAL PROPERTY
 22-58 AND PUBLICATIONS. (a) In connection with the statewide water
 22-59 conservation awareness program, the executive administrator may:

22-60 (1) apply for, register, secure, hold, and protect
 22-61 under the laws of the United States, a state, or a foreign country a
 22-62 patent, copyright, trademark, or other evidence of protection or
 22-63 exclusivity issued in or for an idea, publication, or other
 22-64 original innovation fixed in a tangible medium, including:

22-65 (A) a literary work;

22-66 (B) a logo;

22-67 (C) a service mark;

22-68 (D) a study;

22-69 (E) a map or planning document;

23-1 (F) an engineering, architectural, or graphic
 23-2 design;

23-3 (G) a manual;
 23-4 (H) automated systems software;
 23-5 (I) an audiovisual work;
 23-6 (J) a sound recording; or
 23-7 (K) educational materials, including a pamphlet,
 23-8 bulletin, book, map, periodical, or electronic information;

23-9 (2) enter into a nonexclusive license agreement with a
 23-10 third party for the receipt of a fee, royalty, or other thing of
 23-11 monetary or nonmonetary value;

23-12 (3) waive or reduce the amount of a fee, royalty, or
 23-13 other thing of monetary or nonmonetary value to be assessed if the
 23-14 executive administrator determines that the waiver will:

23-15 (A) further the goals and missions of the board;
 23-16 and

23-17 (B) result in a net benefit to the state; and
 23-18 (4) adopt and enforce rules necessary to implement
 23-19 this section.

23-20 (b) Money paid to the board under this section shall be
 23-21 deposited to the credit of the water infrastructure fund.

23-22 Sec. 16.403. WATER CONSERVATION PLAN REVIEW. (a) Each
 23-23 entity that is required to submit a water conservation plan to the
 23-24 commission under this code shall submit a copy of the plan to the
 23-25 executive administrator.

23-26 (b) Each entity that is required to submit a water
 23-27 conservation plan to the executive administrator, board, or
 23-28 commission under this code shall report annually to the executive
 23-29 administrator on the entity's progress in implementing the plan.

23-30 (c) The executive administrator shall review each water
 23-31 conservation plan and annual report to determine compliance with
 23-32 the minimum requirements of all applicable laws and rules.

23-33 SUBCHAPTER L. REGISTRATION AND REPORTING OF WATER TRANSACTIONS

23-34 Sec. 16.451. SCOPE OF SUBCHAPTER. This subchapter does not
 23-35 apply to a sale or lease of land that includes the transfer of the
 23-36 ownership of or a leasehold interest in the groundwater or surface
 23-37 water rights unless the primary purpose of the purchaser or lessee
 23-38 in purchasing or leasing the land is to acquire the ownership of or
 23-39 a leasehold interest in the groundwater or surface water rights.

23-40 Sec. 16.452. REGISTRATION REQUIRED. Unless the person is
 23-41 registered by the executive administrator under this subchapter, a
 23-42 person may not:

23-43 (1) sell or lease a right of any kind to more than 100
 23-44 acre-feet a year of surface water or groundwater to another person;
 23-45 or

23-46 (2) agree to provide more than 100 acre-feet a year of
 23-47 surface water or groundwater to another person.

23-48 Sec. 16.453. ELIGIBILITY FOR REGISTRATION. To be eligible
 23-49 for registration under this subchapter, a person must submit to the
 23-50 executive administrator:

23-51 (1) an application on a form prescribed by board rule;
 23-52 and

23-53 (2) a fee in an amount determined by board rule that is
 23-54 sufficient to cover the costs incurred by the board in
 23-55 administering this subchapter.

23-56 Sec. 16.454. REGISTRATION RENEWAL. Registration under this
 23-57 subchapter must be renewed annually.

23-58 Sec. 16.455. REPORTING WATER TRANSACTIONS. A person who
 23-59 sells or leases a right of any kind to more than 100 acre-feet a year
 23-60 of surface water or groundwater to another person or agrees to
 23-61 provide more than 100 acre-feet a year of surface water or
 23-62 groundwater to another person shall report the sale, lease, or
 23-63 agreement to the executive administrator not later than the 30th
 23-64 day after the date of closing of the sale or execution of the lease
 23-65 or agreement by submitting to the executive administrator:

23-66 (1) a report concerning the sale, lease, or agreement
 23-67 that complies with rules adopted by the board; and

23-68 (2) a transaction reporting fee in an amount
 23-69 determined by board rule that is sufficient to cover the costs

24-1 incurred by the board in administering this subchapter.

24-2 Sec. 16.456. ADMINISTRATIVE PENALTY. (a) A person who
 24-3 sells or leases a right of any kind to surface water or groundwater
 24-4 or agrees to provide surface water or groundwater in violation of
 24-5 Section 16.452 or 16.455 is subject to an administrative penalty.
 24-6 The amount of the penalty may not exceed \$5,000 for each sale,
 24-7 lease, or agreement in violation of Section 16.452 or 16.455. A
 24-8 separate penalty may be imposed for a violation of each section if a
 24-9 sale, lease, or agreement violates both sections.

24-10 (b) The executive administrator may refer a violation of
 24-11 Section 16.452 or 16.455 to the commission. The commission may
 24-12 impose an administrative penalty for the violation in the manner
 24-13 provided by Subchapter C, Chapter 7.

24-14 Sec. 16.457. DEPOSIT OF FEES AND PENALTIES IN WATER
 24-15 INFRASTRUCTURE FUND. A fee or administrative penalty collected
 24-16 under this subchapter shall be deposited to the credit of the water
 24-17 infrastructure fund.

24-18 SECTION 2.22. Section 17.001, Water Code, is amended by
 24-19 adding Subdivision (26) to read as follows:

24-20 (26) "Conjunctive use" has the meaning assigned by
 24-21 Section 11.002.

24-22 SECTION 2.23. Subchapter A, Chapter 17, Water Code, is
 24-23 amended by adding Section 17.004 to read as follows:

24-24 Sec. 17.004. PRIORITY FOR CONJUNCTIVE USE APPLICATIONS. In
 24-25 its funding programs under this chapter, the board shall give
 24-26 priority to applications for water supply projects that promote
 24-27 conjunctive use, if conjunctive use is available, reasonable, and
 24-28 cost-effective. The board shall consider incentives for promoting
 24-29 conjunctive use, including low or zero interest rate loans.

24-30 SECTION 2.24. Section 17.125, Water Code, is amended by
 24-31 adding Subsection (b-2) to read as follows:

24-32 (b-2) The board shall give priority to applications for
 24-33 funds for implementation of water supply projects in the state
 24-34 water plan by entities that:

24-35 (1) have already demonstrated significant water
 24-36 conservation savings; or

24-37 (2) will achieve significant water conservation
 24-38 savings by implementing the proposed project for which the
 24-39 financial assistance is sought.

24-40 SECTION 2.25. Section 26.001, Water Code (effective upon
 24-41 delegation of NPDES authority), is amended by adding Subdivision
 24-42 (27) to read as follows:

24-43 (27) "Treated effluent" means waste that has been
 24-44 treated as required by, and is authorized to be discharged under, a
 24-45 permit.

24-46 SECTION 2.26. Section 26.003, Water Code, is amended to
 24-47 read as follows:

24-48 Sec. 26.003. POLICY OF THIS SUBCHAPTER. It is the policy of
 24-49 this state and the purpose of this subchapter to maintain the
 24-50 quality of water in the state consistent with the public health and
 24-51 enjoyment, the propagation and protection of terrestrial and
 24-52 aquatic life, and the operation of existing industries, taking into
 24-53 consideration the economic development of the state; to encourage
 24-54 and promote the development and use of regional and areawide waste
 24-55 collection, treatment, and disposal systems to serve the waste
 24-56 disposal needs of the citizens of the state; to encourage the
 24-57 stewardship of public and private lands to benefit waters of the
 24-58 state; and to require the use of all reasonable methods to implement
 24-59 this policy.

24-60 SECTION 2.27. Section 26.027, Water Code (effective upon
 24-61 delegation of NPDES permit authority), is amended by adding
 24-62 Subsections (a-1) and (c-1) to read as follows:

24-63 (a-1) The commission may issue permits and amendments to
 24-64 permits for the injection and subsequent recovery for beneficial
 24-65 use of treated effluent into an aquifer in this state. A permit may
 24-66 not be issued authorizing the injection of any radiological,
 24-67 chemical, or biological warfare agent or high-level radioactive
 24-68 waste. The commission may issue a permit only if the commission
 24-69 finds that issuance of the permit would not:

25-1 (1) violate a state or federal law or a rule or
 25-2 regulation adopted under such a law;

25-3 (2) alter the physical, chemical, or biological
 25-4 quality of native groundwater to a degree that the introduction of
 25-5 treated effluent would:

25-6 (A) render groundwater produced from the aquifer
 25-7 harmful or detrimental to people, animals, vegetation, or property;
 25-8 or

25-9 (B) require treatment of the groundwater to a
 25-10 greater extent than the native groundwater requires before being
 25-11 applied to that beneficial use; or

25-12 (3) interfere with the purpose of this chapter.

25-13 (c-1) A person may not commence injection of treated
 25-14 effluent until the commission has issued a permit to authorize the
 25-15 injection from the treatment facility, except with the approval of
 25-16 the commission.

25-17 SECTION 2.28. Section 27.012, Water Code, is amended by
 25-18 adding Subsection (c) to read as follows:

25-19 (c) Applications for injection of treated effluent under a
 25-20 permit issued under Chapter 26 for purposes of injection into an
 25-21 aquifer for storage and subsequent recovery for beneficial use
 25-22 shall be processed in accordance with this chapter for the benefit
 25-23 of the state and the preservation of its natural resources.

25-24 SECTION 2.29. Subchapter B, Chapter 27, Water Code, is
 25-25 amended by adding Section 27.022 to read as follows:

25-26 Sec. 27.022. PERMIT FOR INJECTION FOR STORAGE AND RECOVERY
 25-27 OF TREATED EFFLUENT IN CLASS V WELLS. (a) The commission may issue
 25-28 a permit to inject for storage and subsequent recovery for
 25-29 beneficial use treated effluent under a permit issued under Chapter
 25-30 26 in a Class V injection well if the applicant for the permit meets
 25-31 all the statutory and regulatory requirements for the issuance of a
 25-32 permit for a Class V injection well.

25-33 (b) The commission by rule shall provide for public notice
 25-34 and comment on an application for a permit authorized by this
 25-35 section. Notwithstanding Section 27.018, an application for a
 25-36 permit authorized by this section is not subject to the hearing
 25-37 requirements of Chapter 2001, Government Code.

25-38 SECTION 2.30. Subsection (c), Section 35.004, Water Code,
 25-39 is amended to read as follows:

25-40 (c) The Texas Water Development Board may not alter the
 25-41 boundaries of designated management areas ~~as required by future~~
 25-42 ~~conditions and as justified by factual data. An alteration of~~
 25-43 ~~boundaries does not invalidate the previous creation of any~~
 25-44 ~~district].~~

25-45 SECTION 2.31. Subsection (b), Section 35.018, Water Code,
 25-46 is amended to read as follows:

25-47 (b) The report must include:

25-48 (1) the names and locations of all priority
 25-49 groundwater management areas and districts created or attempted to
 25-50 be created on or after November 5, 1985, the effective date of
 25-51 Chapter 133 (H.B. No. 2), Acts of the 69th Legislature, Regular
 25-52 Session, 1985;

25-53 (2) the authority under which each priority
 25-54 groundwater management area and district was proposed for creation;

25-55 (3) a detailed analysis of each election held to
 25-56 confirm the creation of a district, including analysis of election
 25-57 results, possible reasons for the success or failure to confirm the
 25-58 creation of a district, and the possibility for future voter
 25-59 approval of districts in areas in which attempts to create
 25-60 districts failed;

25-61 (4) a detailed analysis of the activities of each
 25-62 district created, including those districts which are implementing
 25-63 management plans approved ~~certified~~ under Section 36.1072;

25-64 (5) a report on ~~audits performed on districts under~~
 25-65 ~~Section 36.302 and~~ remedial actions taken under Section 36.303;

25-66 (6) recommendations for changes in this chapter and
 25-67 Chapter 36 that will facilitate the creation of priority
 25-68 groundwater management areas and the creation and operation of
 25-69 districts;

26-1 (7) a report on educational efforts in newly
26-2 designated priority groundwater management areas; and

26-3 (8) any other information and recommendations that the
26-4 commission considers relevant.

26-5 SECTION 2.32. Section 36.001, Water Code, is amended by
26-6 amending Subdivision (21) and adding Subdivisions (4-a) and (24)
26-7 through (28) to read as follows:

26-8 (4-a) "Federal conservation program" means the
26-9 Conservation Reserve Program of the United States Department of
26-10 Agriculture, or any successor program.

26-11 (21) "Conjunctive use" has the meaning assigned by
26-12 Section 11.002 [~~means the combined use of groundwater and surface~~
26-13 ~~water sources that optimizes the beneficial characteristics of each~~
26-14 ~~source].~~

26-15 (24) "Total aquifer storage" means the total
26-16 calculated volume of groundwater that an aquifer is capable of
26-17 producing.

26-18 (25) "Managed available groundwater" means the amount
26-19 of water that may be permitted by a district for beneficial use in
26-20 accordance with the desired future condition of the aquifer as
26-21 determined by the groundwater management area council.

26-22 (26) "Recharge" means the amount of water that
26-23 infiltrates to the water table of an aquifer.

26-24 (27) "Inflows" means the amount of water that flows
26-25 into an aquifer from another formation.

26-26 (28) "Discharge" means the amount of water that leaves
26-27 an aquifer by natural or artificial means.

26-28 SECTION 2.33. Subchapter A, Chapter 36, Water Code, is
26-29 amended by adding Section 36.0016 to read as follows:

26-30 Sec. 36.0016. POLICY GOAL. It is the policy goal of this
26-31 chapter to ensure the consistent management of groundwater in a
26-32 shared management area by the groundwater conservation districts
26-33 located in that area.

26-34 SECTION 2.34. Section 36.002, Water Code, is amended to
26-35 read as follows:

26-36 Sec. 36.002. OWNERSHIP OF GROUNDWATER. The ownership and
26-37 rights of the owners of the land and their lessees and assigns in
26-38 groundwater are hereby recognized, and nothing in this code shall
26-39 be construed as depriving or divesting the owners or their lessees
26-40 and assigns of the ownership or rights, except as those rights may
26-41 be limited or altered by rules promulgated by a district. A rule
26-42 promulgated by a district may not discriminate between owners of
26-43 land that is irrigated for production and owners of land or their
26-44 lessees and assigns whose land that was irrigated for production is
26-45 enrolled or participating in a federal conservation program.

26-46 SECTION 2.35. Subsections (a), (b), and (d) through (g),
26-47 Section 36.1071, Water Code, are amended to read as follows:

26-48 (a) Following notice and hearing, the district shall, in
26-49 coordination with surface water management entities on a regional
26-50 basis, develop a comprehensive management plan which addresses the
26-51 following management goals, as applicable:

26-52 (1) providing the most efficient use of groundwater;
26-53 (2) controlling and preventing waste of groundwater;
26-54 (3) controlling and preventing subsidence;
26-55 (4) addressing conjunctive surface water management
26-56 issues;

26-57 (5) addressing natural resource issues;
26-58 (6) addressing drought conditions; ~~and~~
26-59 (7) addressing conservation, recharge enhancement,
26-60 rainwater harvesting, precipitation enhancement, or brush control,
26-61 where appropriate and cost-effective;

26-62 (8) addressing a data collection program that meets
26-63 standards established by Texas Water Development Board rules; and

26-64 (9) addressing in a quantitative manner the desired
26-65 future conditions for the groundwater resources within the district
26-66 established by the groundwater management area council under
26-67 Section 36.108.

26-68 (b) A [~~After January 5, 2002, a]~~ district management plan,
26-69 or any amendments to a district management plan, shall be developed

27-1 by the district using the district's best available data and
 27-2 forwarded to the regional water planning group for use
 27-3 [~~consideration~~] in their planning process.

27-4 (d) The commission shall provide technical assistance to a
 27-5 district during its initial operational phase. If requested by a
 27-6 district, the Texas Water Development Board shall train districts
 27-7 on basic data collection methodology and provide technical
 27-8 assistance to districts as provided by Section 16.0122.

27-9 (e) In the management plan described under Subsection (a),
 27-10 the district shall:

27-11 (1) identify the performance standards and management
 27-12 objectives under which the district will operate to achieve the
 27-13 management goals identified under Subsection (a);

27-14 (2) specify, in as much detail as possible, the
 27-15 actions, procedures, performance, and avoidance that are or may be
 27-16 necessary to effect the plan, including specifications and proposed
 27-17 rules;

27-18 (3) include estimates of the following:

27-19 (A) managed available [~~the existing total usable~~
 27-20 ~~amount of~~] groundwater in the district as provided by the executive
 27-21 administrator and based on the desired future condition of the
 27-22 aquifers established by the groundwater management area council
 27-23 under Section 36.108;

27-24 (B) the amount of groundwater [~~being~~] used within
 27-25 the district on an annual basis for each of the preceding 10 years;

27-26 (C) the annual amount of recharge, if any, to the
 27-27 groundwater resources within the district and how natural or
 27-28 artificial recharge may be increased; and

27-29 (D) the projected water supply and projected
 27-30 demand for water within the district; and

27-31 (4) address water supply needs in a manner that is not
 27-32 in conflict with the adopted state [~~appropriate approved regional~~]
 27-33 water plan [~~if a regional water plan has been approved under Section~~
 27-34 ~~16.053~~].

27-35 (f) The district shall adopt rules necessary to implement
 27-36 the management plan. Prior to the development of the management
 27-37 plan and its approval under Section 36.1072, the district may not
 27-38 adopt rules other than rules pertaining to the registration and
 27-39 continued operation of existing wells and rules governing procedure
 27-40 before the district's board; however, the district may accept
 27-41 applications for permits under Section 36.113, provided the
 27-42 district does not act on any such application until the district's
 27-43 management plan is approved as provided in Section 36.1072, unless
 27-44 special circumstances are demonstrated which necessitate the
 27-45 granting of one or more interim authorizations to drill and operate
 27-46 new wells prior to the management plan's approval.

27-47 (g) The district [~~board~~] shall adopt amendments to the
 27-48 management plan as necessary. Amendments to the management plan
 27-49 shall be adopted after notice and hearing and shall otherwise
 27-50 comply with the requirements of this section.

27-51 SECTION 2.36. Section 36.1072, Water Code, is amended to
 27-52 read as follows:

27-53 Sec. 36.1072. COUNCIL [~~TEXAS WATER DEVELOPMENT BOARD~~]
 27-54 REVIEW AND APPROVAL [~~CERTIFICATION~~] OF MANAGEMENT PLAN. (a) A
 27-55 district shall, not later than three [~~two~~] years after the creation
 27-56 of the district or, if the district required confirmation, after
 27-57 the election confirming the district's creation, submit the
 27-58 management plan required under Section 36.1071 to the executive
 27-59 administrator for review and comment and to the groundwater
 27-60 management area council for review and approval [~~certification~~].
 27-61 The executive administrator shall provide comments to the
 27-62 groundwater management area council and groundwater district on the
 27-63 plan, including whether the plan contains goals and objectives
 27-64 consistent with achieving the desired future condition of the
 27-65 relevant aquifers as adopted by the groundwater management area
 27-66 council under Section 36.108.

27-67 (b) Within 60 days of receipt of a management plan adopted
 27-68 under Section 36.1071, readopted under Subsection (e) of this
 27-69 section, or amended under Section 36.1073, the council [~~executive~~]

28-1 ~~administrator~~] shall approve [~~certify~~] a management plan that
 28-2 contains goals and objectives consistent with achieving the desired
 28-3 future condition of the relevant aquifers as adopted by the
 28-4 groundwater management area council under Section 36.108 and that
 28-5 contains [~~if the plan is administratively complete. A management~~
 28-6 ~~plan is administratively complete when it contains~~] the information
 28-7 required to be submitted under Section 36.1071. The groundwater
 28-8 management area council [~~executive administrator~~] may determine
 28-9 whether [~~that~~] conditions justify waiver of the requirements under
 28-10 Section 36.1071(e)(4).

28-11 (c) Once the groundwater management area council has
 28-12 approved a [~~determination that a~~] management plan [~~is~~
 28-13 ~~administratively complete has been made~~]:

28-14 (1) the council [~~executive administrator~~] may not
 28-15 revoke but may suspend the approval as provided by Subsection (g)
 28-16 [~~determination that a management plan is administratively~~
 28-17 ~~complete~~]; and

28-18 (2) the council [~~executive administrator~~] may request
 28-19 additional information from the district if the information is
 28-20 necessary to clarify, modify, or supplement previously submitted
 28-21 material, but, ~~and~~

28-22 [~~(3)~~] a request for additional information does not
 28-23 render the management plan unapproved [~~incomplete~~].

28-24 (d) A management plan takes effect on approval
 28-25 [~~certification~~] by the groundwater management area council
 28-26 [~~executive administrator~~] or, if appealed, on approval
 28-27 [~~certification~~] by the Texas Water Development Board.

28-28 (e) The district [~~board~~] may review the plan annually and
 28-29 must review and readopt the plan with or without revisions at least
 28-30 once every five years. The district shall provide the readopted
 28-31 plan to the executive administrator and groundwater management area
 28-32 council not later than the 60th day after the date on which the plan
 28-33 was readopted. Approval of the preceding management plan remains
 28-34 in effect until:

28-35 (1) the district fails to timely readopt a management
 28-36 plan;

28-37 (2) the district fails to timely submit the district's
 28-38 readopted management plan to the executive administrator or the
 28-39 council; or

28-40 (3) the council determines that the readopted
 28-41 management plan does not meet the requirements for approval, and
 28-42 the district has exhausted all appeals to the Texas Water
 28-43 Development Board.

28-44 (f) If the groundwater management area council [~~executive~~
 28-45 ~~administrator~~] does not approve [~~certify~~] the management plan, the
 28-46 council [~~executive administrator~~] shall provide to the district, in
 28-47 writing, the reasons for the action. Not later than the 180th day
 28-48 after the date a district receives notice that its management plan
 28-49 has not been approved [~~certified~~], the district may submit a
 28-50 revised management plan for review and approval [~~certification~~].
 28-51 The council's [~~executive administrator's~~] decision may be appealed
 28-52 to the Texas Water Development Board. The decision of the Texas
 28-53 Water Development Board on whether to approve [~~certify~~] the
 28-54 management plan may [~~not~~] be appealed to a district court in the
 28-55 county where the district is headquartered. The commission shall
 28-56 not take enforcement action against a district under Subchapter I
 28-57 until the later of the expiration of the 180-day period or the date
 28-58 the Texas Water Development Board has taken final action
 28-59 withholding approval [~~certification~~] of a revised management plan.

28-60 (g) In this subsection, "development board" means the Texas
 28-61 Water Development Board, and "council" means the groundwater
 28-62 management area council. A person with a legally defined interest
 28-63 in groundwater in a district or the regional water planning group
 28-64 may file a petition with the council [~~board~~] stating that a conflict
 28-65 requiring resolution may exist between the district's approved
 28-66 [~~certified groundwater conservation district~~] management plan
 28-67 developed under Section 36.1071 and the state water plan. If a
 28-68 conflict exists, the council [~~board~~] shall facilitate coordination
 28-69 between the involved person or regional water planning group and

29-1 the district to resolve the conflict. If conflict remains, the
 29-2 council shall petition the development board to ~~[shall]~~ resolve the
 29-3 conflict. The development board action under this provision may be
 29-4 consolidated, at the option of the development board, with related
 29-5 action under Section 16.053(p). If the development board
 29-6 determines that resolution of the conflict requires a revision of
 29-7 the approved ~~[certified groundwater conservation district]~~
 29-8 management plan, the council ~~[board]~~ shall suspend the approval
 29-9 ~~[certification]~~ of the plan and provide information to the
 29-10 district. The district shall prepare any revisions to the plan
 29-11 specified by the council ~~[board]~~ and shall hold, after notice, at
 29-12 least one public hearing at some central location within the
 29-13 district. The district shall consider all public and development
 29-14 board comments, prepare, revise, and adopt its plan, and submit the
 29-15 revised plan to the council ~~[board]~~ for approval ~~[certification]~~.
 29-16 On the request of the district or the regional water planning group,
 29-17 the development board shall include discussion of the conflict and
 29-18 its resolution in the state water plan that the development board
 29-19 provides to the governor, the lieutenant governor, and the speaker
 29-20 of the house of representatives under Section 16.051(e).

29-21 SECTION 2.37. Section 36.1073, Water Code, is amended to
 29-22 read as follows:

29-23 Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment
 29-24 to the management plan shall be submitted to the groundwater
 29-25 management area council and the executive administrator for review
 29-26 and comment within 60 days following adoption of the amendment by
 29-27 the district's board. The council ~~[executive administrator]~~ shall
 29-28 review and approve and the executive administrator shall review and
 29-29 comment on ~~[certify]~~ any amendment which substantially affects the
 29-30 management plan in accordance with the procedures established under
 29-31 Section 36.1072.

29-32 SECTION 2.38. Subchapter D, Chapter 36, Water Code, is
 29-33 amended by amending Section 36.108 and adding Sections 36.1081 and
 29-34 36.1082 to read as follows:

29-35 Sec. 36.108. GROUNDWATER MANAGEMENT AREA COUNCIL; ~~[JOINT]~~
 29-36 PLANNING IN MANAGEMENT AREA. (a) In this section, "development
 29-37 board" means the Texas Water Development Board.

29-38 (b) The development board shall establish a groundwater
 29-39 management area council for each management area designated under
 29-40 Section 35.004 and shall appoint the members of the council, except
 29-41 as provided by this section. The groundwater management area
 29-42 council shall ensure the coordination of groundwater management in
 29-43 each management area.

29-44 (c) Each groundwater management area council is composed of
 29-45 the following representatives:

29-46 (1) the presiding officer of each groundwater
 29-47 conservation district in the groundwater management area or the
 29-48 presiding officer's designee;

29-49 (2) one additional representative of each multicounty
 29-50 groundwater conservation district, if the district chooses to
 29-51 appoint one; and

29-52 (3) residents of a district in the groundwater
 29-53 management area appointed by the development board as follows:

29-54 (A) one representative of retail water utility or
 29-55 municipal interests located wholly or partly in the groundwater
 29-56 management area;

29-57 (B) one representative of a regional water
 29-58 planning group, as designated under Section 16.053, to represent
 29-59 all the regional water planning groups located wholly or partly in
 29-60 the groundwater management area;

29-61 (C) one representative of agricultural interests
 29-62 who is an individual actively engaged in production agriculture;
 29-63 and

29-64 (D) one representative of industrial or
 29-65 manufacturing interests located wholly or partly in the groundwater
 29-66 management area.

29-67 (d) If the number of representatives on the groundwater
 29-68 management area council that results from the application of
 29-69 Subsection (c) is an even number, the representatives shall appoint

30-1 an additional representative by a two-thirds vote of those
 30-2 representatives. The additional member must be a resident of a
 30-3 district in the groundwater management area with a reasonable
 30-4 knowledge of groundwater issues and hydrology in the area.

30-5 (e) The groundwater management area council shall elect one
 30-6 of the representatives as presiding officer of the council.

30-7 (f) A person appointed under Subsection (c)(3) or (d) may
 30-8 not be an employee or officer of a district or a state or federal
 30-9 agency.

30-10 (g) A member of the council appointed under Subsection
 30-11 (c)(3) or (d) serves a two-year term expiring August 31 of each
 30-12 odd-numbered year. If a vacancy occurs, the council shall appoint a
 30-13 successor not later than the 60th day after the date the council
 30-14 receives notice of the vacancy.

30-15 (h) Not later than the fifth anniversary, after funding is
 30-16 made available, of the appointment of a groundwater management area
 30-17 council, and at least every fifth year after that anniversary, each
 30-18 groundwater management area council shall adopt a statement that in
 30-19 a quantified manner describes the desired future conditions of each
 30-20 aquifer in the groundwater management area.

30-21 (i) A groundwater management area council may:

30-22 (1) in coordination with the executive administrator,
 30-23 perform areawide hydrogeologic studies and modeling as supplements
 30-24 to the groundwater availability models obtained or developed by the
 30-25 executive administrator under Section 16.012;

30-26 (2) coordinate with a district, regional water
 30-27 planning group, political subdivision, the commission, the
 30-28 development board, or any other person or entity regarding
 30-29 groundwater management;

30-30 (3) establish groundwater monitoring networks in the
 30-31 groundwater management area; and

30-32 (4) designate a political subdivision to perform a
 30-33 duty required by this section, including by executing a necessary
 30-34 contract.

30-35 (j) In adopting the desired future conditions of each
 30-36 aquifer under Subsection (h), each groundwater management area
 30-37 council shall:

30-38 (1) use groundwater availability models developed by
 30-39 the executive administrator or other data approved by the executive
 30-40 administrator; and

30-41 (2) consider recommendations that districts or other
 30-42 interested persons in the groundwater management area propose.

30-43 (k) The commission and the development board shall provide
 30-44 technical assistance to a groundwater management area council in
 30-45 the development of the statement adopted under Subsection (h).

30-46 (l) Each groundwater management area council shall submit
 30-47 the council's final statement adopted under Subsection (h) to the
 30-48 executive administrator for review and comment. If the development
 30-49 board finds that the submitted statement and estimate are in
 30-50 conflict with the state water plan or the groundwater availability
 30-51 adopted by the development board for the council's groundwater
 30-52 management area, the development board shall provide comment and
 30-53 recommendations to the council to resolve the conflict. The
 30-54 council shall amend the adopted statement and estimate accordingly.
 30-55 The executive administrator shall provide an estimate of managed
 30-56 available groundwater to the groundwater management area council
 30-57 based on the council's statement adopted under Subsection (h).

30-58 (m) Each groundwater management area council shall:

30-59 (1) conduct all meetings in accordance with Chapter
 30-60 551, Government Code;

30-61 (2) provide notice for each meeting in the manner
 30-62 prescribed by Chapter 551, Government Code, for a district board of
 30-63 directors meeting; and

30-64 (3) comply with the provisions of Chapter 552,
 30-65 Government Code.

30-66 (n) A cause of action does not accrue against a groundwater
 30-67 management area council, a representative serving on a groundwater
 30-68 management area council, or an employee of a political subdivision
 30-69 designated under Subsection (i)(4) for an act or omission if the

31-1 council, representative, or employee committed the act or omission
 31-2 while acting in good faith and in the course and scope of the
 31-3 council's, representative's, or employee's work related to the
 31-4 groundwater management area council.

31-5 (o) A groundwater management area council, a representative
 31-6 serving on a groundwater management area council, or an employee of
 31-7 a political subdivision designated under Subsection (i)(4) is not
 31-8 liable for damages arising from an act or omission if the council,
 31-9 representative, or employee committed the act or omission while
 31-10 acting in good faith and in the course and scope of the council's,
 31-11 representative's, or employee's work related to the groundwater
 31-12 management area council.

31-13 (p) On request, the attorney general shall represent a
 31-14 groundwater management area council, a representative serving on a
 31-15 groundwater management area council, or an employee of a political
 31-16 subdivision designated under Subsection (i)(4) in a suit arising
 31-17 from an act or omission relating to the groundwater management area
 31-18 council.

31-19 (q) A person with a legally defined interest in the
 31-20 groundwater in the groundwater management area, a district in or
 31-21 adjacent to the groundwater management area, or a regional water
 31-22 planning group for a region in the groundwater management area may
 31-23 file a petition with the development board appealing the approval
 31-24 of the groundwater management area plan. The petition must provide
 31-25 evidence that:

31-26 (1) the groundwater management area plan does not
 31-27 establish a reasonable desired future condition of the groundwater
 31-28 resources in the groundwater management area;

31-29 (2) the management area plan does not establish
 31-30 reasonable groundwater availability for the district; or

31-31 (3) the groundwater in the groundwater management area
 31-32 will not be adequately protected.

31-33 (r) The development board shall review the petition and any
 31-34 evidence relevant to the petition. The development board shall
 31-35 hold at least one hearing at a central location in the management
 31-36 area to take testimony on the petition. The development board may
 31-37 delegate responsibility for a hearing to the executive
 31-38 administrator or to a person designated by the executive
 31-39 administrator. If the development board finds that the groundwater
 31-40 management area plan requires revision, the development board shall
 31-41 submit a report to the groundwater management area council that
 31-42 includes a list of findings and recommended revisions to the
 31-43 groundwater management area plan.

31-44 (s) The groundwater management area council shall prepare a
 31-45 revised plan in accordance with development board recommendations
 31-46 and hold, after notice, at least one public hearing at a central
 31-47 location in the groundwater management area. After consideration
 31-48 of all public and development board comments, the council shall
 31-49 revise the plan and submit the plan to the development board for
 31-50 review [If two or more districts are located within the boundaries
 31-51 of the same management area, each district shall prepare a
 31-52 comprehensive management plan as required by Section 36.1071
 31-53 covering that district's respective territory. On completion and
 31-54 certification of the plan as required by Section 36.1072, each
 31-55 district shall forward a copy of the new or revised management plan
 31-56 to the other districts in the management area. The boards of the
 31-57 districts shall consider the plans individually and shall compare
 31-58 them to other management plans then in force in the management area.

31-59 [(b) The board of directors of each district in the
 31-60 management area may, by resolution, call for joint planning with
 31-61 the other districts in the management area to review the management
 31-62 plans and accomplishments for the management area. In reviewing
 31-63 the management plans, the boards shall consider:

31-64 [(1) the goals of each management plan and its impact
 31-65 on planning throughout the management area;

31-66 [(2) the effectiveness of the measures established by
 31-67 each management plan for conserving and protecting groundwater and
 31-68 preventing waste, and the effectiveness of these measures in the
 31-69 management area generally; and

32-1 ~~[(3) any other matters that the boards consider~~
 32-2 ~~relevant to the protection and conservation of groundwater and the~~
 32-3 ~~prevention of waste in the management area.~~

32-4 ~~[(c) If a joint meeting of the boards of directors is~~
 32-5 ~~called, the meeting must be held in accordance with Chapter 551,~~
 32-6 ~~Government Code. Notice of the meeting shall be given in accordance~~
 32-7 ~~with the requirements for notice of district board of directors~~
 32-8 ~~meetings under that Act].~~

32-9 Sec. 36.1081. PETITION AGAINST DISTRICT. (a) At least
 32-10 every five years a groundwater ~~[(d) A district in the]~~ management
 32-11 area council shall review the management plan and the performance
 32-12 of each district in the groundwater management area. A district or
 32-13 a groundwater management area council for good cause may file ~~[with~~
 32-14 ~~good cause]~~ a petition with the commission requesting an inquiry if
 32-15 [the petitioner district adopted a resolution calling for joint
 32-16 planning and the other district or districts refused to join in the
 32-17 planning process or the process failed to result in adequate
 32-18 planning, and the petition provides evidence that]:

32-19 (1) a ~~[another]~~ district in the groundwater management
 32-20 area has failed to submit its management plan to the executive
 32-21 administrator and the groundwater management area council ~~[adopt~~
 32-22 ~~rules];~~

32-23 (2) a district in the groundwater management area has
 32-24 failed to adopt or make reasonable progress toward adopting rules;

32-25 (3) the rules adopted by a district are not designed to
 32-26 achieve the desired future condition of the groundwater resources
 32-27 in the groundwater management area established by the groundwater
 32-28 management area plan ~~[the groundwater in the management area is not~~
 32-29 ~~adequately protected by the rules adopted by another district];~~ or

32-30 (4) ~~[(3)]~~ the groundwater in the groundwater
 32-31 management area is not adequately protected due to the failure of a
 32-32 [another] district to enforce substantial compliance with its
 32-33 rules.

32-34 (b) ~~[(e)]~~ Not later than the 90th day after the date the
 32-35 petition is filed, the commission shall review the petition and
 32-36 either:

32-37 (1) dismiss the petition if the commission ~~[it if it]~~
 32-38 finds that the evidence is not adequate to show that any of the
 32-39 conditions alleged in the petition exist; or

32-40 (2) select a review panel as provided in Subsection
 32-41 (c) ~~[(f)].~~

32-42 (c) ~~[(f)]~~ If the petition is not dismissed under Subsection
 32-43 (b) ~~[(e)]~~, the commission shall appoint a review panel consisting
 32-44 of a chairman and four other members. A director or general manager
 32-45 of a district located outside the groundwater management area that
 32-46 is the subject of the petition may be appointed to the review panel.
 32-47 The commission may not appoint more than two members of the review
 32-48 panel from any one district. The commission also shall appoint a
 32-49 disinterested person to serve as a nonvoting recording secretary
 32-50 for the review panel. The recording secretary may be an employee of
 32-51 the commission. The recording secretary shall record and document
 32-52 the proceedings of the panel.

32-53 (d) ~~[(g)]~~ Not later than the 120th day after appointment,
 32-54 the review panel shall review the petition and any evidence
 32-55 relevant to the petition and, in a public meeting, consider and
 32-56 adopt a report to be submitted to the commission. The commission
 32-57 may direct the review panel to conduct public hearings at a location
 32-58 in the groundwater management area to take evidence on the
 32-59 petition. The review panel may attempt to negotiate a settlement or
 32-60 resolve the dispute by any lawful means.

32-61 (e) ~~[(h)]~~ In its report, the review panel shall include:

32-62 (1) a summary of all evidence taken in any hearing on
 32-63 the petition;

32-64 (2) a list of findings and recommended actions
 32-65 appropriate for the commission to take and the reasons it finds
 32-66 those actions appropriate; and

32-67 (3) any other information the panel considers
 32-68 appropriate.

32-69 (f) ~~[(i)]~~ The review panel shall submit its report to the

33-1 commission. The commission may take action under Section 36.3011.

33-2 Sec. 36.1082. DISTRICT COOPERATION. ~~[(j)]~~ Districts
 33-3 located within the same groundwater management areas or in adjacent
 33-4 management areas may contract to jointly conduct studies or
 33-5 research, or to construct projects, under terms and conditions that
 33-6 the districts consider beneficial. These joint efforts may include
 33-7 studies of groundwater availability and quality, aquifer modeling,
 33-8 and the interaction of groundwater and surface water; educational
 33-9 programs; the purchase and sharing of equipment; and the
 33-10 implementation of projects to make groundwater available,
 33-11 including aquifer recharge, brush control, weather modification,
 33-12 desalination, regionalization, and treatment or conveyance
 33-13 facilities. The districts may contract under their existing
 33-14 authorizations including those of Chapter 791, Government Code, if
 33-15 their contracting authority is not limited by Sections
 33-16 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

33-17 SECTION 2.39. Section 36.113, Water Code, is amended by
 33-18 amending Subsections (a), (c), (e), and (f) and adding Subsections
 33-19 (h) through (l) to read as follows:

33-20 (a) A district shall require permits for ~~[the]~~ drilling,
 33-21 equipping, ~~[or]~~ completing, or operating ~~[of]~~ wells or for
 33-22 substantially altering the size of wells or well pumps.

33-23 (c) A district may require that the following be included in
 33-24 the permit application:

33-25 (1) the name and mailing address of the applicant and
 33-26 the owner of the land on which the well will be located;

33-27 (2) if the applicant is other than the owner of the
 33-28 property, documentation establishing the applicable authority to
 33-29 construct and operate a well for the proposed purpose of use;

33-30 (3) a statement of the nature and purpose of the
 33-31 proposed use and the amount of water to be used for each purpose;

33-32 (4) a water conservation plan or a declaration that
 33-33 the applicant will comply with the district's management plan;

33-34 (5) the location of each well and the estimated rate at
 33-35 which water will be withdrawn;

33-36 (6) a water well closure plan or a declaration that the
 33-37 applicant will comply with well plugging guidelines and report
 33-38 closure to the commission; and

33-39 (7) a drought contingency plan.

33-40 (e) The district may impose more restrictive permit
 33-41 conditions on new permit applications and increased use by historic
 33-42 or existing users if the limitations:

33-43 (1) apply to all subsequent new permit applications
 33-44 and increased use by historic or existing users, regardless of type
 33-45 or location of use;

33-46 (2) bear a reasonable relationship to the existing
 33-47 district management plan; and

33-48 (3) are reasonably necessary to protect existing use.

33-49 (f) Permits may be issued subject to the rules promulgated
 33-50 by the district and subject to terms and provisions with reference
 33-51 to the drilling, equipping, completion, operating, or alteration of
 33-52 wells or pumps that may be necessary to prevent waste and achieve
 33-53 water conservation, minimize as far as practicable the drawdown of
 33-54 the water table or the reduction of artesian pressure, lessen
 33-55 interference between wells, or control and prevent subsidence.

33-56 (h) A district shall provide that a change in the purpose
 33-57 and place of use under a permit that was granted for historic or
 33-58 existing use may not be made without a permit amendment. The
 33-59 district shall grant a permit amendment changing the purpose and
 33-60 place of use on application of the holder of a permit that was
 33-61 granted for historic or existing use, and the rules that apply to
 33-62 the operation of a well under any other permit issued by the
 33-63 district not based on historic or existing use apply to the
 33-64 operation of the well under the amended permit.

33-65 (i) A district that authorizes a permit for historic or
 33-66 existing use shall issue that type of permit based on evidence of
 33-67 the maximum amount of water beneficially used without waste during
 33-68 any one year before the district was created and only for the
 33-69 purpose and amount beneficially used without waste in that year.

34-1 (j) In issuing a permit for an existing or historic use, a
 34-2 district may not discriminate between land that is irrigated for
 34-3 production and land or wells on land that was irrigated for
 34-4 production and enrolled or participating in a federal conservation
 34-5 program.

34-6 (k) A permitting decision by a district is void if:
 34-7 (1) the district makes its decision in violation of
 34-8 Subsection (j); and

34-9 (2) the district would have reached a different
 34-10 decision if the district had treated land or wells on land enrolled
 34-11 or participating in a federal conservation program the same as land
 34-12 irrigated for production.

34-13 (1) On the application of an affected owner of land or the
 34-14 owner's lessee or assigns, the district shall reconsider a decision
 34-15 that is void under Subsection (k) and base its decision on the equal
 34-16 treatment of land or wells on land enrolled or participating in a
 34-17 federal conservation program and land that is irrigated for
 34-18 production. Not later than the 90th day after the date the district
 34-19 receives an application under this subsection, the district shall
 34-20 render its decision and notify the applicant of its decision.

34-21 SECTION 2.40. Subchapter D, Chapter 36, Water Code, is
 34-22 amended by adding Section 36.1152 to read as follows:

34-23 Sec. 36.1152. PERMITS BASED ON MANAGED AVAILABLE
 34-24 GROUNDWATER. (a) Except as provided by Subsection (b), a
 34-25 district, to the extent possible, shall issue permits up to the
 34-26 point that the total volume of groundwater permitted equals the
 34-27 managed available groundwater, if administratively complete permit
 34-28 applications are submitted to the district.

34-29 (b) If a district proposes, based on sound science, to limit
 34-30 the volume of groundwater permitted to less than the managed
 34-31 available groundwater, the district must obtain the approval of the
 34-32 groundwater management area council. Prior to acting on the
 34-33 request, the groundwater management area council shall obtain and
 34-34 consider the executive administrator's technical review and
 34-35 analysis of the science on which the request is based.

34-36 (c) The groundwater management area council:
 34-37 (1) shall approve a district's proposed limit under
 34-38 Subsection (b) if the total reduction from the managed available
 34-39 groundwater does not exceed 12.5 percent; and
 34-40 (2) may approve a limit resulting in a reduction
 34-41 greater than 12.5 percent.

34-42 SECTION 2.41. Subsections (a) and (b), Section 36.116,
 34-43 Water Code, are amended to read as follows:

34-44 (a) In order to minimize as far as practicable the drawdown
 34-45 of the water table or the reduction of artesian pressure, to control
 34-46 subsidence, to prevent interference between wells, to prevent
 34-47 degradation of water quality, or to prevent waste, a district by
 34-48 rule may regulate:

34-49 (1) the spacing of water wells by:
 34-50 (A) requiring all water wells to be spaced a
 34-51 certain distance from property lines or adjoining wells;
 34-52 (B) requiring wells with a certain production
 34-53 capacity, pump size, or other characteristic related to the
 34-54 construction or operation of and production from a well to be spaced
 34-55 a certain distance from property lines or adjoining wells; or
 34-56 (C) imposing spacing requirements adopted by the
 34-57 board; and

34-58 (2) the production of groundwater by:
 34-59 (A) setting production limits on wells;
 34-60 (B) limiting the amount of water produced based
 34-61 on acreage or tract size;
 34-62 (C) limiting the amount of water that may be
 34-63 produced from a defined number of acres assigned to an authorized
 34-64 well site;

34-65 (D) limiting the maximum amount of water that may
 34-66 be produced on the basis of acre-feet per acre or gallons per minute
 34-67 per well site per acre; ~~or~~

34-68 (E) managed depletion; or
 34-69 (F) any combination of the methods listed above

in Paragraphs (A) through (E) [~~(D)~~].

(b) In promulgating any rules limiting groundwater production, the district may preserve historic or existing use before the effective date of the rules to the maximum extent practicable consistent with the district's comprehensive management plan under Section 36.1071 and as provided by Section 36.113.

SECTION 2.42. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.125 to read as follows:

Sec. 36.125. APPEAL OF DISTRICT ACTION TO DISPUTE RESOLUTION PANEL. (a) If a dispute arises between a district and a person affected by an action taken by the district under this subchapter, either the district or the affected person may file a petition with the commission requesting the appointment of a dispute resolution panel to mediate the dispute and assist the parties in reaching resolution of the dispute.

(b) A petition filed under this section must include:

(1) the name of and contact information for each party;

(2) a brief summary of the dispute along with a copy of any relevant document, including a permit, an application, a timeline, the district's enabling statute, a rule, a groundwater management plan, or the groundwater management area plan; and

(3) other information required by the commission.

(c) Not later than the 60th day after the date the petition is filed, the commission shall review the petition and:

(1) dismiss it if the commission finds that the petition is baseless, frivolous, or fails to present an issue that is appropriate for panel review; or

(2) select a panel as provided by Subsection (e).

(d) If the petition is dismissed, the commission shall provide the reasons for the dismissal in writing to the district and the affected person.

(e) If the petition is not dismissed, the commission shall appoint three members of a dispute resolution panel, including the chair of the panel, who must be officers or employees of a district located outside the groundwater management area in which the parties to the dispute are located. The three appointed members shall select two other panel members who are not otherwise involved in or affected by the matter in dispute and whose knowledge or expertise may be useful in resolving the dispute. Not more than two panel members may be from the same district.

(f) The commission shall appoint a neutral person to serve as a nonvoting recording secretary for the panel. The recording secretary appointed may be a commission employee. The recording secretary shall record and document the panel's proceedings.

(g) Not later than the 60th day after the date the panel is appointed, the panel shall review the petition and any information relevant to the petition and begin holding meetings with the parties to mediate the dispute. The panel may attempt to negotiate a settlement or resolve the dispute by any other lawful means. The panel may consolidate multiple parties, appoint a person to represent multiple parties, invite additional parties, or dismiss parties as the panel considers appropriate. The Texas Water Development Board and the commission shall provide technical and legal assistance as requested by the panel.

(h) A court of this state shall take judicial notice of an act or decision of a dispute resolution panel appointed under this section and may stay an affected judicial proceeding pending a final resolution from the panel.

SECTION 2.43. Section 36.301, Water Code, is amended to read as follows:

Sec. 36.301. FAILURE TO SUBMIT A MANAGEMENT PLAN. If a board fails to submit a management plan or readopted management plan to receive approval [~~certification~~] of its management plan under Section 36.1072 or fails to submit or receive approval [~~certification~~] of an amendment to the management plan under Section 36.1073, the commission shall take appropriate action under Section 36.303.

36-1 SECTION 2.44. Section 36.3011, Water Code, is amended to
 36-2 read as follows:

36-3 Sec. 36.3011. FAILURE OF [A] DISTRICT TO COMPLY WITH
 36-4 GROUNDWATER MANAGEMENT AREA PLAN [~~CONDUCT JOINT PLANNING~~].

36-5 [~~(a) If the board of a district within a common management area~~
 36-6 ~~fails to forward a copy of its new or revised certified management~~
 36-7 ~~plan under Section 36.108, the commission shall take appropriate~~
 36-8 ~~action under Section 36.303.~~

36-9 [~~(b)~~] Not later than the 45th day after receiving the review
 36-10 panel's report under Section 36.1081 [~~36.108~~], the executive
 36-11 director or the commission shall take action to implement any or all
 36-12 of the panel's recommendations. The commission may take any action
 36-13 against a district it considers necessary in accordance with
 36-14 Section 36.303 if [~~if~~] the commission finds that:

36-15 (1) a district [~~in the joint planning area~~] has failed
 36-16 to submit its plan to the executive administrator and the
 36-17 groundwater management area council;

36-18 (2) a district has failed to adopt rules;
 36-19 (3) the rules adopted by the district are not designed
 36-20 to achieve the desired future condition of the groundwater
 36-21 resources in the groundwater management area established under the
 36-22 groundwater management area plan; or

36-23 (4) the district fails [~~, the groundwater in the~~
 36-24 management area is not adequately protected by the rules adopted by
 36-25 the district, or the groundwater in the management area is not
 36-26 adequately protected because of the district's failure] to enforce
 36-27 substantial compliance with its rules [~~, the commission may take any~~
 36-28 action it considers necessary in accordance with Section 36.303].

36-29 SECTION 2.45. Subsection (a), Section 36.303, Water Code,
 36-30 is amended to read as follows:

36-31 (a) If Section 36.1081 [~~36.108~~], 36.301, or 36.3011 [~~or~~
 36-32 ~~36.302(f)~~] applies, the commission, after notice and hearing in
 36-33 accordance with Chapter 2001, Government Code, shall take action
 36-34 the commission considers appropriate, including:

36-35 (1) issuing an order requiring the district to take
 36-36 certain actions or to refrain from taking certain actions;

36-37 (2) dissolving the board in accordance with Sections
 36-38 36.305 and 36.307 and calling an election for the purpose of
 36-39 electing a new board;

36-40 (3) requesting the attorney general to bring suit for
 36-41 the appointment of a receiver to collect the assets and carry on the
 36-42 business of the groundwater conservation district; or

36-43 (4) dissolving the district in accordance with
 36-44 Sections 36.304, 36.305, and 36.308.

36-45 SECTION 2.46. Subsection (a), Section 36.304, Water Code,
 36-46 is amended to read as follows:

36-47 (a) The commission may dissolve a district that [~~+~~
 36-48 ~~(1) is not operational, as determined under Section~~
 36-49 ~~36.302, and~~

36-50 ~~(2)]~~ has no outstanding bonded indebtedness.

36-51 SECTION 2.47. Title 5, Water Code, is amended by adding
 36-52 Chapter 153 to read as follows:

36-53 CHAPTER 153. STATEWIDE GROUNDWATER CONSERVATION DISTRICT
 36-54 SUBCHAPTER A. GENERAL PROVISIONS

36-55 Sec. 153.001. DEFINITION. In this chapter, "statewide
 36-56 district" means the statewide groundwater conservation district
 36-57 created under this chapter.

36-58 Sec. 153.002. NATURE OF DISTRICT. The statewide district
 36-59 is a groundwater conservation district in this state created under
 36-60 and essential to accomplish the purposes of Section 59, Article
 36-61 XVI, Texas Constitution.

36-62 [Sections 153.003-153.050 reserved for expansion]
 36-63 SUBCHAPTER B. DISTRICT CREATION AND ADMINISTRATION

36-64 Sec. 153.051. Prior to September 1, 2006, the Texas
 36-65 Commission on Environmental Quality shall create a groundwater
 36-66 conservation district composed of all state-owned land not
 36-67 currently within the boundaries of a confirmed groundwater
 36-68 conservation district as of August 31, 2007. The members of the
 36-69 commission shall serve as the board of directors of the district,

37-1 and the district shall have all the powers and duties of a
 37-2 groundwater conservation district as provided in Subchapter D,
 37-3 Chapter 36. Sections 12.081, 36.201, 36.202, 36.203, 36.204, and
 37-4 Subchapters B, C, E, F, G, H, I, J, and K, and Chapter 49 are not
 37-5 applicable to the district created by the commission under this
 37-6 section.

37-7 SECTION 2.48. Subsection (b), Section 212.0101, Local
 37-8 Government Code, is amended to read as follows:

37-9 (b) The Texas [~~Natural Resource Conservation~~] Commission on
 37-10 Environmental Quality by rule shall establish the appropriate form
 37-11 and content of a certification to be attached to a plat application
 37-12 under this section.

37-13 SECTION 2.49. Subsection (b), Section 232.0032, Local
 37-14 Government Code, is amended to read as follows:

37-15 (b) The Texas [~~Natural Resource Conservation~~] Commission on
 37-16 Environmental Quality by rule shall establish the appropriate form
 37-17 and content of a certification to be attached to a plat application
 37-18 under this section.

37-19 SECTION 2.50. Section 9.017, Water Code, is repealed.

37-20 SECTION 2.51. (a) The executive administrator of the Texas
 37-21 Water Development Board shall conduct a study to determine the
 37-22 effects, if any, of take-or-pay contracts on efforts to conserve
 37-23 water.

37-24 (b) Not later than January 1, 2007, the executive
 37-25 administrator of the Texas Water Development Board shall submit a
 37-26 report to the legislature that includes:

37-27 (1) a summary of the findings made during the course of
 37-28 the study; and

37-29 (2) recommendations for legislative action based on
 37-30 those findings.

37-31 (c) This section expires September 1, 2007.

37-32 SECTION 2.52. Subsection (b), Section 11.173, Water Code,
 37-33 as amended by this article, applies to a cancellation proceeding
 37-34 that is pending on the effective date of this Act or is initiated on
 37-35 or after the effective date of this Act.

37-36 SECTION 2.53. Subsection (b), Section 15.102, Water Code,
 37-37 as amended by this article, and Subsection (b-2), Section 17.125,
 37-38 Water Code, as added by this article, apply only to an application
 37-39 for financial assistance filed with the Texas Water Development
 37-40 Board on or after the effective date of this Act. An application
 37-41 for financial assistance filed before the effective date of this
 37-42 Act is governed by the law in effect on the date the application was
 37-43 filed, and the former law is continued in effect for that purpose.

37-44 SECTION 2.54. (a) Not later than December 1, 2005:

37-45 (1) the Texas Water Development Board shall adopt
 37-46 rules under Subchapter L, Chapter 16, Water Code, as added by this
 37-47 article; and

37-48 (2) the executive administrator of the Texas Water
 37-49 Development Board shall be prepared to accept applications
 37-50 submitted under Section 16.453, Water Code, as added by this
 37-51 article.

37-52 (b) A person is not required to be registered under Section
 37-53 16.452, Water Code, as added by this article, until March 1, 2006.

37-54 (c) Section 16.455, Water Code, as added by this article,
 37-55 applies only to a sale, lease, or agreement entered into on or after
 37-56 March 1, 2006.

37-57 SECTION 2.55. Not later than the 90th day after the
 37-58 effective date of this Act, a groundwater conservation district
 37-59 shall amend to bring into compliance with Section 36.002, Water
 37-60 Code, as amended by this article, any rule adopted before the
 37-61 effective date of this Act.

37-62 SECTION 2.56. (a) The executive administrator of the Texas
 37-63 Water Development Board shall appoint the initial appointed
 37-64 representatives for each groundwater management area council as
 37-65 provided by Section 36.108, Water Code, as amended by this article,
 37-66 as soon as practicable on or after the effective date of this Act.
 37-67 The terms of the initial representatives for each groundwater
 37-68 management area council expire August 31, 2007.

37-69 (b) The Texas Water Development Board shall convene the

groundwater management area councils required under Section 36.108, Water Code, as amended by this article, not later than September 1, 2006.

(c) The Texas Commission on Environmental Quality and the Texas Water Development Board shall adopt any rules, models, and forms necessary for the implementation of the groundwater management area planning functions required by this article not later than September 1, 2006.

SECTION 2.57. (a) Except in any district expanded by Section 20, Chapter 200, Acts of the 78th Legislature, Regular Session, 2003, the changes in law made under Subsections (h) and (i), Section 36.113, and Subsection (b), Section 36.116, Water Code, as amended by this article, do not apply to:

- (1) an application or permit issued on the basis of an application filed before March 1, 2005;
- (2) a renewal or amendment of a permit issued on the basis of an application filed before March 1, 2005;
- (3) a permit issued under rules in effect as of March 1, 2005; or
- (4) a renewal or amendment to a permit issued under rules in effect as of March 1, 2005.

(b) Subsection (a) of this section does not limit the ability of a groundwater conservation district to adopt procedural rules governing notice, hearing, rulemaking, or permit processing in accordance with any law finally passed by the 79th Legislature, Regular Session, 2005, that governs notice, hearing, rulemaking, or permit processing procedures of groundwater conservation districts, if the procedural rules adopted do not conflict with a substantive district rule that existed on March 1, 2005.

SECTION 2.58. Chapter 153, Water Code, as added by this article, takes effect September 1, 2007.

SECTION 2.59. Section 36.001, Water Code, is amended by adding Subdivision (24) to read as follows:

(24) "Evidence of historic 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, 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, or if agreed to by stipulation of the parties.

ARTICLE 3. FINANCING OF WATER PROJECTS

SECTION 3.01. Chapter 13, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. WATER CONSERVATION AND DEVELOPMENT FEE

Sec. 13.551. DEFINITIONS. In this subchapter:

- (1) "Agricultural use" has the meaning assigned by Section 11.002.
- (2) "Customer" means a person who is provided potable or nonpotable water for a charge or as an incident of tenancy. In the context of a landlord-tenant relationship, the term means the landlord unless the tenant is billed directly by the provider.
- (3) "Provider" means a person who provides for compensation potable or nonpotable water.

Sec. 13.552. LIMITATION ON APPLICABILITY. This subchapter does not apply to:

- (1) the wholesale provision of water; or
- (2) the provision of water for agricultural use.

Sec. 13.553. WATER CONSERVATION AND DEVELOPMENT FEE.

- (a) Each provider shall collect from each customer a water conservation and development fee as provided by this subchapter.
- (b) The provider shall collect the fee on behalf of this state.
- (c) The fee is not considered to be revenue of the provider, with the exception of the portion of the fee retained under Section 13.556(b).

Sec. 13.554. POLICY REGARDING FINANCING OF WATER INFRASTRUCTURE, CREATION OF LEGISLATIVE OVERSIGHT COMMITTEE.

(a) In recognition of the importance of providing for the state's future water supply and infrastructure needs, the legislature makes the following findings:

(1) Senate Bill No. 1, 75th Legislature, Regular Session, 1997, made significant advances in planning for the state's future water supply needs through the state and regional water supply planning processes and no comprehensive coordinated investment has been made in water resource needs identified in Senate Bill No. 1;

(2) Senate Bill No. 2, 77th Legislature, Regular Session, 2001, provided appropriate mechanism to fund future water supply projects identified in the State Water Plan through the water infrastructure fund;

(3) Senate Bill No. 3, 79th Legislature, Regular Session, 2005:

(A) provides for ensuring the state's environmental flow needs through an adaptive management process;

(B) provides for determination of actual costing of projects in recognition of the expedited regional water planning process;

(C) provides a framework for consistent groundwater management over groundwater management areas;

(D) drives decision-making, sound science, and consistent management at the state, regional, and local levels; and

(E) implements water transaction reporting requirements;

(4) the state's population is projected to double in the next 35 years; and

(5) many areas of the state have lacked the resources to make investments since the enactment of Senate Bill No. 1 and Senate Bill No. 2 to address their water supply needs.

(b) To establish a fair and reasonable funding mechanism, a legislative oversight committee is created to:

(1) ensure funding is available to provide for adequate water supply for the future of Texas;

(2) provide a revenue-generating mechanism that is derived from data evaluation and analysis of equitable fee structures and reporting mechanisms;

(3) evaluate public policy implications for assessing the water conservation and development fee; and

(4) provide a source of dedicated funds for water infrastructure needs for the next 50 years.

(c) In recognition of the importance of providing for the state's water infrastructure, and of the need to structure a fair and reasonable funding mechanism that will fund such infrastructure, there is created the Legislative Oversight Committee on Water Financing.

(d) The oversight committee is composed of 10 members of the legislature as follows:

(1) five members of the senate appointed by the lieutenant governor, one of whom shall be the chair of the Senate Natural Resources Committee; and

(2) five members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be the chair of the House Natural Resources Committee.

(e) The position of presiding officer of the oversight committee shall alternate annually between the chair of the Senate Natural Resources Committee and the chair of the House Natural Resources Committee. The chair of the Senate Natural Resources Committee shall serve as the first presiding officer, with a term beginning on the effective date of this Act.

(f) Other than the chairs of the senate and house natural resources committees, members serve at the will of the person who appointed each member.

(g) The board shall provide staff support for the oversight committee. The executive administrator of the board shall compile and analyze for the committee's use information received by the

40-1 board regarding water use throughout the state, water
 40-2 infrastructure needs throughout the state, the adequacy of current
 40-3 funding for such infrastructure needs, and gaps in the ability to
 40-4 fund such infrastructure.

40-5 (h) The oversight committee shall conduct public hearings
 40-6 and study public policy implications for assessing the water
 40-7 conservation and development fee as a source of dedicated funds for
 40-8 water infrastructure development. Specifically, the oversight
 40-9 committee shall determine how to establish and implement the fee
 40-10 described in this subchapter, including recommendations on:

40-11 (1) constitutional dedication of revenues in the water
 40-12 infrastructure fund;

40-13 (2) the amount of the fee and the impact of the fee on
 40-14 all water users;

40-15 (3) the uses upon which the fee shall be assessed;

40-16 (4) any appropriate reservations of the fee; and

40-17 (5) any proposed changes to this subchapter.

40-18 (i) The oversight committee may appoint technical
 40-19 subcommittees, which may include persons other than the members of
 40-20 the oversight committee. The oversight committee shall appoint a
 40-21 technical advisory subcommittee composed of financial advisors and
 40-22 bond counsel.

40-23 (j) The oversight committee shall provide a report on or
 40-24 before August 31, 2006, to the governor, lieutenant governor, and
 40-25 speaker of the house of representatives addressing the topics
 40-26 included in Subsection (h) and recommending any needed legislation.

40-27 (k) The fee established by this subchapter shall not be
 40-28 assessed until the legislature has established the appropriate rate
 40-29 and conditions of its imposition.

40-30 (l) The oversight committee shall adopt rules to administer
 40-31 this section.

40-32 (m) The oversight committee is abolished and this section
 40-33 expires September 1, 2009.

40-34 Sec. 13.555. EXEMPTIONS. (a) The first 5,000 gallons of
 40-35 water sold to a customer each month is exempt from the fee if the
 40-36 customer is a resident of a single-family dwelling or multifamily
 40-37 dwelling unit.

40-38 (b) The first 5,000 gallons of water sold for each
 40-39 multifamily dwelling unit to a customer each month is exempt from
 40-40 the fee if the customer is the owner or manager of a multifamily
 40-41 dwelling complex.

40-42 (c) The exemptions provided by Subsections (a) and (b) apply
 40-43 without regard to:

40-44 (1) whether the provision of water is bundled with
 40-45 another service; or

40-46 (2) the billing period used by the provider.

40-47 (d) An entity described by Section 151.309 or 151.310, Tax
 40-48 Code, is exempt from the fee imposed by this subchapter.

40-49 Sec. 13.556. PAYMENT OF FEE. (a) On or before the fifth
 40-50 day of the month following the end of each calendar month, each
 40-51 provider shall send to the comptroller the amount of the fee the
 40-52 provider collected under this subchapter during the preceding
 40-53 calendar month.

40-54 (b) A provider that makes timely payment of the fee imposed
 40-55 under this subchapter is entitled to retain an amount equal to
 40-56 one-half of one percent of the amount of the fee collected as
 40-57 reimbursement for the costs of collecting the fee for that month.

40-58 Sec. 13.557. REPORTS. On or before the fifth day of the
 40-59 month following the end of each calendar month, each provider shall
 40-60 file with the comptroller a report made under guidelines
 40-61 established by the comptroller stating:

40-62 (1) the number of gallons of water sold during the
 40-63 preceding calendar month;

40-64 (2) the number of gallons of water sold during the
 40-65 preceding calendar month on which the fee was imposed; and

40-66 (3) any other information required by the comptroller.

40-67 Sec. 13.558. RECORDS. A provider shall keep a complete
 40-68 record under guidelines established by the comptroller of:

40-69 (1) the number of gallons of water sold during the

41-1 preceding calendar month;
 41-2 (2) the number of gallons of water sold during the
 41-3 preceding calendar month on which the fee was imposed; and
 41-4 (3) any other information required by the comptroller.

41-5 Sec. 13.559. DEDICATION OF REVENUE. The revenue from the
 41-6 fee imposed by this subchapter is dedicated to and shall be
 41-7 deposited to the credit of the water infrastructure fund and may be
 41-8 used only as provided by Subchapter Q, Chapter 15. Should bonds or
 41-9 other obligations be outstanding that are secured by or payable
 41-10 from balances initially deposited to the credit of the water
 41-11 infrastructure fund, including the dedication of the fees as
 41-12 provided by this section, any balance in the water infrastructure
 41-13 fund and the dedication of the fees provided by this section may not
 41-14 be reduced, rescinded, or repealed unless the legislature by law
 41-15 dedicates to the water infrastructure fund a substitute or
 41-16 different source that is projected by the comptroller to produce an
 41-17 amount no less than the amount produced by the source being reduced,
 41-18 rescinded, or repealed.

41-19 Sec. 13.560. AUDITS AND ENFORCEMENT. (a) The comptroller
 41-20 may audit the records of any provider required to collect and remit
 41-21 to the comptroller the fee imposed by this subchapter to ensure that
 41-22 the fee is being properly collected and remitted to the comptroller
 41-23 and as otherwise necessary to ensure compliance with this
 41-24 subchapter.

41-25 (b) The comptroller shall take appropriate action against a
 41-26 provider who does not collect and remit to the comptroller the fee
 41-27 as required by this subchapter.

41-28 SECTION 3.02. Subsection (a), Section 15.407, Water Code,
 41-29 is amended to read as follows:

41-30 (a) In this section, "economically distressed area" and
 41-31 "political subdivision" have the meanings assigned by Section
 41-32 17.941 [~~16.341 of this code~~].

41-33 SECTION 3.03. Section 15.971, Water Code, is amended by
 41-34 adding Subdivision (6) to read as follows:

41-35 (6) "Provider" means a person who provides for
 41-36 compensation potable or nonpotable water and who collects and
 41-37 remits fees pursuant to Subchapter O, Chapter 13.

41-38 SECTION 3.04. Section 15.973, Water Code, is amended to
 41-39 read as follows:

41-40 Sec. 15.973. WATER INFRASTRUCTURE FUND. (a) The water
 41-41 infrastructure fund is a special fund in the state treasury to be
 41-42 administered by the board under this subchapter and rules adopted
 41-43 by the board under this subchapter. Money in the fund may be used to
 41-44 pay for the implementation of water projects recommended through
 41-45 the state and regional water planning processes under Sections
 41-46 16.051 and 16.053 and for other uses authorized by this subchapter.

41-47 (b) The fund consists of:
 41-48 (1) appropriations from the legislature;
 41-49 (2) any other fees or sources of revenue that the
 41-50 legislature may dedicate for deposit to the fund;
 41-51 (3) repayments of loans made from the fund;
 41-52 (4) interest earned on money credited to the fund;
 41-53 (5) depository interest allocable to the fund;
 41-54 (6) money from gifts, grants, or donations to the
 41-55 fund;

41-56 (7) money from revenue bonds or other sources
 41-57 designated by the board; [~~and~~]

41-58 (8) proceeds from the sale of political subdivision
 41-59 bonds or obligations held in the fund and not otherwise pledged to
 41-60 the discharge, repayment, or redemption of revenue bonds or other
 41-61 bonds, the proceeds of which were placed in the fund;

41-62 (9) the proceeds from the collection of the fee
 41-63 imposed under Subchapter O, Chapter 13;

41-64 (10) money paid to the board under Section 16.402; and

41-65 (11) fees and penalties collected under Subchapter L,
 41-66 Chapter 16.

41-67 SECTION 3.05. Section 15.974, Water Code, is amended by
 41-68 amending Subsection (a) and adding Subsections (d) and (e) to read
 41-69 as follows:

42-1 (a) The board may use the fund:

42-2 (1) to make loans to political subdivisions at or
42-3 below market interest rates for projects;

42-4 (2) to make grants, low-interest loans, or zero
42-5 interest loans to political subdivisions for projects to serve
42-6 areas outside metropolitan statistical areas in order to ensure
42-7 that the projects are implemented, for conjunctive use projects, or
42-8 for projects to serve economically distressed areas;

42-9 (3) to make loans at or below market interest rates for
42-10 planning and design costs, permitting costs, and other costs
42-11 associated with state or federal regulatory activities with respect
42-12 to a project;

42-13 (4) as a source of revenue or security for the payment
42-14 of principal and interest on bonds issued by the board if the
42-15 proceeds of the sale of the bonds will be deposited in the fund;
42-16 [~~and~~]

42-17 (5) to pay the necessary and reasonable expenses of
42-18 the board in administering the fund; and

42-19 (6) to make transfers:

42-20 (A) to the state participation account and the
42-21 economically distressed areas program account of the Texas Water
42-22 Development Fund II authorized by Section 49-d-8, Article
42-23 III, Texas Constitution, and Subchapter L, Chapter 17, of this
42-24 code, to be used for the purposes authorized by those provisions,
42-25 provided that such transfers shall not be used to make debt service
42-26 or other payments on obligations the proceeds of which are placed
42-27 into such accounts before September 1, 2005;

42-28 (B) to the agricultural water conservation fund
42-29 authorized by Section 50-d, Article III, Texas Constitution, and
42-30 Subchapter J, Chapter 17, of this code, to be used for the purposes
42-31 authorized by those provisions, provided that such transfers shall
42-32 not be used to make debt service or other payments on obligations
42-33 the proceeds of which are placed into such fund before September 1,
42-34 2005;

42-35 (C) to the community/noncommunity water system
42-36 financial assistance account of the safe drinking water revolving
42-37 fund under Section 15.6041(b)(1) to be used for purposes authorized
42-38 from that account;

42-39 (D) to the water assistance fund authorized by
42-40 Subchapter B;

42-41 (E) from revenues collected under Subchapter O,
42-42 Chapter 13, to the rural water assistance fund authorized by
42-43 Subchapter R for use pursuant to Section 15.994(c); and

42-44 (F) from not to exceed eight percent of the
42-45 revenues collected under Subchapter O, Chapter 13, or from revenue
42-46 collected under Subchapter L, Chapter 16, during a fiscal biennium
42-47 to the general revenue fund in amounts not to exceed appropriations
42-48 of general revenue for operations of the board and for operations of
42-49 the commission related to the administration of programs relating
42-50 to water resources and water quality, including the development and
42-51 implementation of the statewide water conservation public
42-52 awareness program required by Section 16.401.

42-53 (d) Twenty-five percent of the fees collected by the
42-54 comptroller from providers under Subchapter O, Chapter 13, shall be
42-55 deposited into an account in the fund to be designated as the local
42-56 contribution account and shall be reserved for each provider
42-57 proportionate to the fees such provider has remitted to the
42-58 comptroller under Subchapter O, Chapter 13. Interest earned on
42-59 money in the local contribution account shall be credited to the
42-60 account. Within five years of the date of deposit of money into the
42-61 local contribution account, a provider may apply to the board for
42-62 designation of the proportion of the fees that it has contributed to
42-63 the account plus interest earned thereon for uses pursuant to
42-64 Subsection (e) and for fees that are projected to be contributed to
42-65 the local contribution account by that provider over the next five
42-66 years. Money in the local contribution account for which an
42-67 application is not filed within five years of their deposit shall be
42-68 transferred to the fund, along with interest earned on such money.
42-69 Providers may pool their reservations to be used for a regional

43-1 project and may designate one person to apply for financial
 43-2 assistance for such regional project.

43-3 (e) The board may use money in the local contribution
 43-4 account pursuant to an application filed by a provider under
 43-5 Subsection (d) for the following purposes and subject to the
 43-6 ability of a provider to qualify for assistance for such purpose:

43-7 (1) to provide assistance directly from the account to
 43-8 political subdivisions for purposes specified in Subsections
 43-9 (a)(1)-(3), provided that grants, low-interest loans, and
 43-10 zero-interest loans under Subsection (a)(2) may be made without
 43-11 regard to whether projects serve areas outside metropolitan
 43-12 statistical areas;

43-13 (2) to transfer to the state participation account,
 43-14 economically distressed areas program account, agricultural water
 43-15 conservation fund, water assistance fund, or safe drinking water
 43-16 revolving fund as authorized by Subsection (a)(6) for subsequent
 43-17 financial assistance to such provider;

43-18 (3) to provide money for participation in the
 43-19 statewide water conservation public awareness program under
 43-20 Section 16.401 or for a political subdivision's water conservation
 43-21 public awareness program;

43-22 (4) to reimburse the provider for the capital cost
 43-23 incurred in, or principal or interest paid on obligations used to
 43-24 finance, the construction of projects:

43-25 (A) which were identified as a water management
 43-26 strategy in the approved regional water plan adopted in 2001 or any
 43-27 amendments to such regional water plan approved by the board; and

43-28 (B) the costs of which would be eligible for
 43-29 financial assistance under this section if an application were made
 43-30 after September 1, 2005; and

43-31 (5) to replace aging water infrastructure to ensure
 43-32 efficient delivery and conservation of water.

43-33 SECTION 3.06. Section 17.172, Water Code, is amended to
 43-34 read as follows:

43-35 Sec. 17.172. APPLICABILITY. This subchapter applies to
 43-36 financial assistance made available from the water supply account,
 43-37 the water quality enhancement account, the flood control account,
 43-38 [and] the economically distressed areas account, and the
 43-39 economically distressed areas program account under Subchapters D,
 43-40 F, G, [and] K, and K-1 of this chapter.

43-41 SECTION 3.07. Chapter 17, Water Code, is amended by adding
 43-42 Subchapter K-1 to read as follows:

43-43 SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED
 43-44 AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

43-45 Sec. 17.941. DEFINITIONS. In this subchapter:

43-46 (1) "Economically distressed area" means an area in
 43-47 this state in which:

43-48 (A) water supply or sewer services are inadequate
 43-49 to meet minimal needs of residential users as defined by board rule;

43-50 (B) financial resources are inadequate to
 43-51 provide water supply and sewer services that will satisfy those
 43-52 needs; and

43-53 (C) an established residential subdivision was
 43-54 located on June 1, 2005, as determined by the board.

43-55 (2) "Financial assistance" means the funds provided by
 43-56 the board to political subdivisions for water supply or sewer
 43-57 services under this subchapter.

43-58 (3) "Political subdivision" means a county, a
 43-59 municipality, a nonprofit water supply corporation created and
 43-60 operating under Chapter 67, or a district or authority created
 43-61 under Section 52, Article III, or Section 59, Article XVI, Texas
 43-62 Constitution.

43-63 (4) "Sewer services" and "sewer facilities" mean
 43-64 treatment works or individual, on-site, or cluster treatment
 43-65 systems such as septic tanks and include drainage facilities and
 43-66 other improvements for proper functioning of the sewer services and
 43-67 other facilities.

43-68 Sec. 17.942. FINANCIAL ASSISTANCE. The economically
 43-69 distressed areas program account may be used by the board to provide

44-1 financial assistance to political subdivisions for the
 44-2 construction, acquisition, or improvement of water supply and sewer
 44-3 services, including providing money from the account for the
 44-4 state's participation in federal programs that provide assistance
 44-5 to political subdivisions. Money from the proceeds of bonds issued
 44-6 under the authority of Sections 49-d-7(b) or 49-d-8, Article III,
 44-7 Texas Constitution, may not be used to provide financial assistance
 44-8 under this subchapter.

44-9 Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A
 44-10 political subdivision may apply to the board for financial
 44-11 assistance under this subchapter by submitting an application
 44-12 together with a plan for providing water supply or sewer services to
 44-13 an economically distressed area.

44-14 (b) The application and plan must include:

44-15 (1) the name of the political subdivision and its
 44-16 principal officers;

44-17 (2) a citation of the law under which the political
 44-18 subdivision operates and was created;

44-19 (3) a description of the existing water supply and
 44-20 sewer facilities located in the area to be served by the proposed
 44-21 project and include with the description a statement prepared and
 44-22 certified by an engineer registered to practice in this state that
 44-23 the facilities do not meet minimum state standards;

44-24 (4) information identifying the median household
 44-25 income for the area to be served by the proposed project;

44-26 (5) a project plan prepared and certified by an
 44-27 engineer registered to practice in this state that:

44-28 (A) describes the proposed planning, design, and
 44-29 construction activities necessary for providing water supply and
 44-30 sewer services that meet minimum state standards; and

44-31 (B) identifies the households to whom the
 44-32 services will be provided;

44-33 (6) a budget that estimates the total cost of
 44-34 providing water supply and sewer services to the economically
 44-35 distressed area and a proposed schedule and method for repayment of
 44-36 financial assistance consistent with board rules and guidelines;
 44-37 and

44-38 (7) the total amount of assistance requested from the
 44-39 economically distressed areas program account.

44-40 (c) A program of water conservation for the more effective
 44-41 use of water is required for approval of an application for
 44-42 financial assistance under this section in the same manner as such a
 44-43 program is required for approval of an application for financial
 44-44 assistance under Section 17.125.

44-45 (d) Before considering the application, the board may
 44-46 require the applicant to:

44-47 (1) participate with the board in reviewing the
 44-48 applicant's managerial, financial, or technical capabilities to
 44-49 operate the system for which assistance is being requested;

44-50 (2) provide a written determination by the commission
 44-51 of the applicant's managerial, financial, and technical
 44-52 capabilities to operate the system for which assistance is being
 44-53 requested;

44-54 (3) request that the comptroller perform a financial
 44-55 management review of the applicant's current operations and, if the
 44-56 comptroller is available to perform the review, provide the board
 44-57 with the results of the review; or

44-58 (4) provide any other information required by the
 44-59 board or the executive administrator.

44-60 Sec. 17.944. CONSIDERATIONS IN PASSING ON APPLICATION.
 44-61 (a) In passing on an application for financial assistance, the
 44-62 board shall consider:

44-63 (1) the need of the economically distressed area to be
 44-64 served by the water supply or sewer services in relation to the need
 44-65 of other political subdivisions requiring financial assistance
 44-66 under this subchapter and the relative costs and benefits of all
 44-67 applications;

44-68 (2) the availability of revenue or alternative
 44-69 financial assistance for the area served by the project, from all

45-1 sources, for the payment of the cost of the proposed project;

45-2 (3) the financing of the proposed water supply or
45-3 sewer project, including consideration of:

45-4 (A) the budget and repayment schedule submitted
45-5 under Section 17.943(b)(6);

45-6 (B) other items included in the application
45-7 relating to financing; and

45-8 (C) other financial information and data
45-9 available to the board; and

45-10 (4) the feasibility of achieving cost savings by
45-11 providing a regional facility for water supply or wastewater
45-12 service and the feasibility of financing the project by using money
45-13 from the economically distressed areas program account or any other
45-14 available financial assistance.

45-15 (b) At the time an application for financial assistance is
45-16 considered, the board also must find that the area to be served by a
45-17 proposed project has a median household income of not more than 75
45-18 percent of the median state household income for the most recent
45-19 year for which statistics are available.

45-20 Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. After
45-21 considering the matters described by Section 17.944, the board by
45-22 resolution shall:

45-23 (1) approve the plan and application as submitted;

45-24 (2) approve the plan and application subject to the
45-25 requirements identified by the board or commission for the
45-26 applicant to obtain the managerial, financial, and technical
45-27 capabilities to operate the system and any other requirements,
45-28 including training under Subchapter M, the board considers
45-29 appropriate;

45-30 (3) deny the application and identify the requirements
45-31 or remedial steps the applicant must complete before the applicant
45-32 may be reconsidered for financial assistance;

45-33 (4) if the board finds that the applicant will be
45-34 unable to obtain the managerial, financial, or technical
45-35 capabilities to build and operate a system, deny the application
45-36 and issue a determination that a service provider other than the
45-37 applicant is necessary or appropriate to undertake the proposed
45-38 project; or

45-39 (5) deny the application.

45-40 Sec. 17.946. FINDINGS REGARDING PERMITS. (a) The board
45-41 may not release money for the construction of that portion of a
45-42 project that proposes surface water or groundwater development
45-43 until the executive administrator makes a written finding:

45-44 (1) that an applicant proposing surface water
45-45 development has the necessary water right authorizing it to
45-46 appropriate and use the water that the water supply project will
45-47 provide; or

45-48 (2) that an applicant proposing groundwater
45-49 development has the right to use water that the water supply project
45-50 will provide.

45-51 (b) The board may release money for the costs of planning,
45-52 engineering, architectural, legal, title, fiscal, or economic
45-53 investigation, studies, surveys, or designs before making the
45-54 finding required under Subsection (a) if the executive
45-55 administrator determines that a reasonable expectation exists that
45-56 the finding will be made before the release of funds for
45-57 construction.

45-58 (c) If an applicant includes a proposal for treatment works,
45-59 the board may not deliver money for the treatment works until the
45-60 applicant has received a permit for construction and operation of
45-61 the treatment works and approval of the plans and specifications
45-62 from the commission or unless such a permit is not required by the
45-63 commission.

45-64 Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) The
45-65 board may provide financial assistance to political subdivisions
45-66 under this subchapter by using money in the economically distressed
45-67 areas program account to purchase political subdivision bonds.

45-68 (b) The board may make financial assistance available to
45-69 political subdivisions in any other manner that it considers

46-1 feasible, including:

46-2 (1) contracts or agreements with a political
 46-3 subdivision for acceptance of financial assistance that establish
 46-4 any repayment based on the political subdivision's ability to repay
 46-5 the assistance and that establish requirements for acceptance of
 46-6 the assistance; or

46-7 (2) contracts or agreements for providing financial
 46-8 assistance in any federal or federally assisted project or program.

46-9 Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) The board
 46-10 may use money in the economically distressed areas program account
 46-11 to provide financial assistance under this subchapter to a
 46-12 political subdivision to be repaid in the form, manner, and time
 46-13 provided by board rules and in the agreement between the board and
 46-14 the political subdivision, taking into consideration the
 46-15 information provided by Section 17.943.

46-16 (b) In providing financial assistance to an applicant under
 46-17 this subchapter, the board may not provide to the applicant
 46-18 financial assistance for which repayment is not required in an
 46-19 amount that exceeds 50 percent of the total amount of the financial
 46-20 assistance plus interest on any amount that must be repaid, unless
 46-21 the Department of State Health Services issues a finding that a
 46-22 nuisance dangerous to the public health and safety exists resulting
 46-23 from water supply and sanitation problems in the area to be served
 46-24 by the proposed project. The board and the applicant shall provide
 46-25 to the Department of State Health Services information necessary to
 46-26 make a determination, and the board and the Department of State
 46-27 Health Services may enter into memoranda of understanding necessary
 46-28 to carry out this subsection.

46-29 (c) The total amount of financial assistance provided by the
 46-30 board to political subdivisions under this subchapter from
 46-31 state-issued bonds for which repayment is not required may not
 46-32 exceed at any time 90 percent of the total principal amount of
 46-33 issued and unissued bonds authorized for purposes of this
 46-34 subchapter.

46-35 (d) In determining the amount and form of financial
 46-36 assistance and the amount and form of repayment, if any, the board
 46-37 shall consider:

46-38 (1) rates, fees, and charges that the average customer
 46-39 to be served by the project will be able to pay based on a comparison
 46-40 of what other families of similar income who are similarly situated
 46-41 pay for comparable services;

46-42 (2) sources of funding available to the political
 46-43 subdivision from federal and private money and from other state
 46-44 money;

46-45 (3) any local money of the political subdivision to be
 46-46 served by the project if the economically distressed area to be
 46-47 served by the board's financial assistance is within the boundary
 46-48 of the political subdivision; and

46-49 (4) the just, fair, and reasonable charges for water
 46-50 and wastewater service as provided by this code.

46-51 (e) In making its determination under Subsection (d)(1),
 46-52 the board may consider any study, survey, data, criteria, or
 46-53 standard developed or prepared by any federal, state, or local
 46-54 agency, private foundation, banking or financial institution, or
 46-55 other reliable source of statistical or financial data or
 46-56 information.

46-57 SECTION 3.08. Subsection (c), Section 17.958, Water Code,
 46-58 is amended to read as follows:

46-59 (c) Money on deposit in the economically distressed areas
 46-60 program account may be used by the board for purposes provided by
 46-61 Subchapter K or K-1 in the manner that the board determines
 46-62 necessary for the administration of the fund.

46-63 SECTION 3.09. Subsection (i), Section 15.407 and Subsection
 46-64 (b), Section 15.974, Water Code, are repealed.

46-65 SECTION 3.10. Section 3.01 of this Act shall not take effect
 46-66 unless and until a future legislature adopts amendments to
 46-67 Subchapter O, Chapter 13, Water Code, to establish a rate for the
 46-68 water conservation and development fee; provided, however, that the
 46-69 provisions of this Act regarding creation and operation of the

Legislative Oversight Committee on Water Financing in Section 13.554, Water Code, shall be effective on the effective date of this Act.

ARTICLE 4. SPECIAL DISTRICT CREATION

SECTION 4.01. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8812 to read as follows:

CHAPTER 8812. VICTORIA COUNTY GROUNDWATER

CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8812.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Victoria County Groundwater Conservation District.

Sec. 8812.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Victoria County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8812.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held before September 1, 2010:

(1) the district is dissolved on September 1, 2010, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Victoria County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires on September 1, 2013.

Sec. 8812.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Victoria County, Texas.

Sec. 8812.005. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8812.006-8812.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8812.021. APPOINTMENT OF TEMPORARY DIRECTORS.

(a) Not later than the 10th day after September 1, 2005, the Victoria County Commissioners Court shall appoint five temporary directors as follows:

(1) one temporary director shall be appointed from each of the four commissioner precincts in the county to represent the precinct in which the temporary director resides; and

(2) one temporary director who resides in the district shall be appointed to represent the district at large.

(b) If there is a vacancy on the temporary board of directors of the district, the remaining temporary directors shall select a qualified person to fill the vacancy. If, at any time, there are fewer than three qualified temporary directors, the Victoria County Commissioners Court shall appoint the necessary number of persons to fill all vacancies on the board.

(c) To be eligible to serve as a temporary director, a person must be a resident of Victoria County and at least 18 years of age.

(d) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial directors as provided by Section 8812.024; or

(2) the date this chapter expires under Section 8812.003.

Sec. 8812.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be

48-1 at the Victoria County Courthouse. At the meeting, the temporary
48-2 directors shall elect a chair, vice chair, and secretary from among
48-3 the temporary directors.

48-4 Sec. 8812.023. CONFIRMATION ELECTION. (a) Not later than
48-5 the 30th day after September 1, 2005, the temporary board shall
48-6 order an election to be held not later than the 120th day after
48-7 September 1, 2005, to confirm the creation of the district.

48-8 (b) Section 41.001(a), Election Code, does not apply to a
48-9 confirmation election held as provided by this section.

48-10 (c) The ballot for the election must be printed to permit
48-11 voting for or against the following propositions:

48-12 (1) the creation of the district; and

48-13 (2) the imposition of an ad valorem tax in the district
48-14 at a rate not to exceed two cents for each \$100 of assessed
48-15 valuation.

48-16 (d) The temporary board may include any other proposition on
48-17 the ballot that it considers necessary.

48-18 (e) Except as provided by this section, a confirmation
48-19 election must be conducted as provided by Section 36.017(b)-(i),
48-20 Water Code, and the Election Code. The provision of Section
48-21 36.017(d), Water Code, relating to the election of permanent
48-22 directors does not apply to a confirmation election under this
48-23 section.

48-24 (f) If the creation of the district is not confirmed at a
48-25 confirmation election held under this section, the board may hold
48-26 another confirmation election not sooner than the first anniversary
48-27 of the most recent confirmation election.

48-28 Sec. 8812.024. INITIAL DIRECTORS. (a) If creation of the
48-29 district is confirmed at an election held under Section 8812.023,
48-30 the temporary directors of the district become the initial
48-31 directors of the district and serve on the board of directors until
48-32 permanent directors are elected under Section 8812.025.

48-33 (b) The directors for county commissioner precincts one and
48-34 three serve until the first regularly scheduled election of
48-35 directors under Section 8812.025. The directors for precincts two
48-36 and four and the director at large serve until the second regularly
48-37 scheduled election of directors under Section 8812.025.

48-38 Sec. 8812.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On
48-39 the uniform election date prescribed by Section 41.001, Election
48-40 Code, in November of the first even-numbered year after the year in
48-41 which the creation of the district is confirmed at an election held
48-42 under Section 8812.023, an election shall be held in the district
48-43 for the election of two directors to replace the initial directors
48-44 who, under Section 8812.024(b), serve until that election.

48-45 Sec. 8812.026. EXPIRATION OF SUBCHAPTER. This subchapter
48-46 expires September 1, 2013.

48-47 [Sections 8812.027-8812.050 reserved for expansion]

48-48 SUBCHAPTER B. BOARD OF DIRECTORS

48-49 Sec. 8812.051. DIRECTORS; TERMS. (a) The district is
48-50 governed by a board of five directors.

48-51 (b) Directors serve staggered four-year terms.

48-52 Sec. 8812.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS
48-53 PRECINCTS. (a) The directors of the district shall be elected
48-54 according to the commissioners precinct method as provided by this
48-55 section.

48-56 (b) One director shall be elected by the voters of the
48-57 entire district, and one director shall be elected from each county
48-58 commissioners precinct by the voters of that precinct.

48-59 (c) Except as provided by Subsection (e), to be eligible to
48-60 be a candidate for or to serve as director at large, a person must be
48-61 at least 18 years of age and a resident of the district. To be a
48-62 candidate for or to serve as director from a county commissioners
48-63 precinct, a person must be at least 18 years of age and a resident of
48-64 that precinct.

48-65 (d) A person shall indicate on the application for a place
48-66 on the ballot:

48-67 (1) the precinct that the person seeks to represent;

48-68 or

48-69 (2) that the person seeks to represent the district at

49-1 large.

49-2 (e) When the boundaries of the county commissioners
 49-3 precincts are redrawn after each federal decennial census to
 49-4 reflect population changes, a director in office on the effective
 49-5 date of the change, or a director elected or appointed before the
 49-6 effective date of the change whose term of office begins on or after
 49-7 the effective date of the change, shall serve in the precinct to
 49-8 which elected or appointed even though the change in boundaries
 49-9 places the person's residence outside the precinct for which the
 49-10 person was elected or appointed.

49-11 Sec. 8812.053. ELECTION DATE. The district shall hold an
 49-12 election to elect the appropriate number of directors on the
 49-13 uniform election date prescribed by Section 41.001, Election Code,
 49-14 in November of each even-numbered year.

49-15 Sec. 8812.054. VACANCIES. A vacancy on the board shall be
 49-16 filled by appointment of the board until the next regularly
 49-17 scheduled directors' election. The person appointed to fill the
 49-18 vacancy shall serve only for the remainder of the unexpired term.

49-19 [Sections 8812.055-8812.100 reserved for expansion]

49-20 SUBCHAPTER C. POWERS AND DUTIES

49-21 Sec. 8812.101. PROHIBITION ON DISTRICT USE OF EMINENT
 49-22 DOMAIN. The district may not exercise the power of eminent domain.

49-23 [Sections 8812.102-8812.150 reserved for expansion]

49-24 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

49-25 Sec. 8812.151. LIMITATION ON TAXES. The district may not
 49-26 impose ad valorem taxes at a rate that exceeds two cents on each
 49-27 \$100 of assessed valuation of taxable property in the district.

49-28 SECTION 4.02. Chapter 1332, Acts of the 77th Legislature,
 49-29 Regular Session, 2001, is repealed.

49-30 SECTION 4.03. (a) The legal notice of the intention to
 49-31 introduce this article, setting forth the general substance of this
 49-32 article, has been published as provided by law, and the notice and a
 49-33 copy of the substance of this article have been furnished to all
 49-34 persons, agencies, officials, or entities to which they are
 49-35 required to be furnished under Section 59, Article XVI, Texas
 49-36 Constitution, and Chapter 313, Government Code.

49-37 (b) The governor has submitted the notice and substance of
 49-38 this article to the Texas Commission on Environmental Quality.

49-39 (c) The Texas Commission on Environmental Quality has filed
 49-40 its recommendations relating to the substance of this article with
 49-41 the governor, lieutenant governor, and speaker of the house of
 49-42 representatives within the required time.

49-43 (d) All requirements of the constitution and laws of this
 49-44 state and the rules and procedures of the legislature with respect
 49-45 to the notice, introduction, and passage of this article are
 49-46 fulfilled and accomplished.

49-47 ARTICLE 5. EDWARDS AQUIFER AUTHORITY

49-48 SECTION 5.01. Subsection (f), Section 1.11, Chapter 626,
 49-49 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
 49-50 read as follows:

49-51 (f) The authority may own, finance, design, [contract with a
 49-52 person who uses water from the aquifer for the authority or that
 49-53 person to] construct, operate, or [own, finance, and] maintain
 49-54 recharge [water supply] facilities or contract with a person who
 49-55 uses water from the aquifer for the authority or that person to own,
 49-56 finance, design, construct, operate or maintain recharge
 49-57 facilities. [Management fees or special fees may not be used for
 49-58 purchasing or operating these facilities.] For the purpose of this
 49-59 subsection, "recharge [water supply] facility" means [includes] a
 49-60 dam, reservoir, [treatment facility, transmission facility,]
 49-61 other method of recharge project and associated facilities,
 49-62 structures, or works.

49-63 SECTION 5.02. Subsections (a), (c), (f), and (h), Section
 49-64 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session,
 49-65 1993, are amended to read as follows:

49-66 (a) Authorizations to withdraw water from the aquifer and
 49-67 all authorizations and rights to make a withdrawal under this Act
 49-68 shall be limited in accordance with this section to:

- 49-69 (1) protect the water quality of the aquifer;

- 50-1 (2) protect the water quality of the surface streams
- 50-2 to which the aquifer provides springflow;
- 50-3 (3) achieve water conservation;
- 50-4 (4) maximize the beneficial use of water available for
- 50-5 withdrawal from the aquifer;
- 50-6 (5) recognize the hydro-geologic connection and
- 50-7 interaction between surface and groundwater;
- 50-8 (6) protect aquatic and wildlife habitat;
- 50-9 (7) ~~(6)~~ protect species that are designated as
- 50-10 threatened or endangered under applicable federal or state law; and
- 50-11 (8) ~~(7)~~ provide for instream uses, bays, and
- 50-12 estuaries.

50-13 (c) Except as provided by Subsections ~~(a)~~ (f) ~~(g)~~ and (h)

50-14 of this section ~~[and Section 1.26 of this article]~~ for the period

50-15 beginning January 1, 2005 ~~[2008]~~, the amount of permitted

50-16 withdrawals from the aquifer may not exceed the sum of all issued

50-17 and pending regular permits filed if annexation occurs ~~[400,000~~

50-18 ~~acre-feet of water for each calendar year]~~.

50-19 (f) If the level of the aquifer is equal to or greater than

50-20 665 ~~[650]~~ feet above mean sea level as measured at Well J-17, the

50-21 authority may authorize withdrawal from the San Antonio pool, on an

50-22 uninterrupted basis, of permitted amounts. If the level of the

50-23 aquifer is equal to or greater than 845 feet at Well J-27, the

50-24 authority may authorize withdrawal from the Uvalde pool, on an

50-25 uninterrupted basis, of permitted amounts. In accordance with

50-26 Section 1.26 of this article, the ~~[The]~~ authority shall limit the

50-27 additional withdrawals to ensure that springflows are not affected

50-28 during critical drought conditions.

50-29 (h) To accomplish the purposes of this article, ~~[by June 1,~~

50-30 ~~1994]~~ the authority, through a program, shall implement and

50-31 enforce water management practices, procedures, and methods to

50-32 ensure that, not later than December 31, 2012, the continuous

50-33 minimum springflows of the Comal Springs and the San Marcos Springs

50-34 are maintained to protect endangered and threatened species to the

50-35 extent required by federal law and to achieve other purposes

50-36 provided by Subsection (a) of this section and Section 1.26 of this

50-37 article. The authority from time to time as appropriate may revise

50-38 the practices, procedures, and methods. To meet this requirement,

50-39 the authority shall require:

50-40 (1) phased reductions in the amount of water that may

50-41 be used or withdrawn by existing users or categories of other users,

50-42 including the authority's critical period management plan

50-43 established under Section 1.26 of this article; or

50-44 (2) implementation of alternative management

50-45 practices, procedures, and methods.

50-46 SECTION 5.03. Subsection (c), Section 1.15, Chapter 626,

50-47 Acts of the 73rd Legislature, Regular Session, 1993, is amended to

50-48 read as follows:

50-49 (c) The authority may issue regular permits, term permits,

50-50 and emergency permits. Except as provided in Section 1.14(f) and

50-51 Section 1.26 of this article, regular permits may not be issued on

50-52 an interruptible basis, and the total withdrawals authorized by all

50-53 regular permits issued by the authority may not exceed the

50-54 limitations provided by Section 1.14 of this article.

50-55 SECTION 5.04. Subsection (b), Section 1.19, Chapter 626,

50-56 Acts of the 73rd Legislature, Regular Session, 1993, is amended to

50-57 read as follows:

50-58 (b) Withdrawal of water under a term permit must be

50-59 consistent with the authority's critical period management plan

50-60 established under Section 1.26 of this article. A holder of a term

50-61 permit may not withdraw water from the San Antonio pool of the

50-62 aquifer unless the level of the aquifer is higher than 675 ~~[665]~~

50-63 feet above sea level, as measured at Well J-17, and the flow at

50-64 Comal Springs as determined by Section 1.26(c) is greater than 350

50-65 cfs.

50-66 SECTION 5.05. Article 1, Chapter 626, Acts of the 73rd

50-67 Legislature, Regular Session, 1993, is amended by amending Section

50-68 1.26 and adding Section 1.26A to read as follows:

50-69 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After

51-1 review of the recommendations received, as prescribed in Section
 51-2 1.26A of this article, the [The] authority shall prepare and
 51-3 coordinate implementation of a [plan for] critical period
 51-4 management plan in a manner consistent with Section 1.14(a) [on or
 51-5 before September 1, 1995]. The mechanisms must:

51-6 (1) distinguish between discretionary use and
 51-7 nondiscretionary use;

51-8 (2) require reductions of all discretionary use to the
 51-9 maximum extent feasible;

51-10 (3) require utility pricing, to the maximum extent
 51-11 feasible, to limit discretionary use by the customers of water
 51-12 utilities; and

51-13 (4) require reduction of nondiscretionary use by
 51-14 permitted or contractual users, to the extent further reductions
 51-15 are necessary, in the reverse order of the following water use
 51-16 preferences:

- 51-17 (A) municipal, domestic, and livestock;
- 51-18 (B) industrial and crop irrigation;
- 51-19 (C) residential landscape irrigation;
- 51-20 (D) recreational and pleasure; and
- 51-21 (E) other uses that are authorized by law.

51-22 (b) Not later than January 1, 2006, the authority shall, by
 51-23 rule, adopt and enforce a critical period management plan with
 51-24 withdrawal reduction criteria at no less than the following amounts
 51-25 whether according to the index well levels or Comal Springs flow as
 51-26 may be applicable:

51-27 TABLE 1 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
 51-28 FOR THE SAN ANTONIO POOL

51-29 INDEX WELL	51-30 COMAL SPRINGS	51-31 CRITICAL	51-32 WITHDRAWAL
51-33 J-17 LEVEL MSL	51-34 FLOW CFS	51-35 PERIOD STAGE	51-36 REDUCTION
			51-37 PERCENTAGE
51-38 <665	51-39 N/A	51-40 I	51-41 10%
51-42 <650	51-43 N/A	51-44 II	51-45 10%
51-46 <640	51-47 <150	51-48 III	51-49 10%
51-50 <630	51-51 <100	51-52 IV	51-53 10%

51-36 For a maximum total of 40 percent of the permitted withdrawals in
 51-37 critical period Stage IV.

51-38 TABLE 2 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
 51-39 FOR THE UVALDE POOL

51-40 INDEX WELL J-27 MSL	51-41 CRITICAL PERIOD	51-42 WITHDRAWAL
51-43 FOR UVALDE POOL	51-44 STAGE	51-45 REDUCTION
		51-46 PERCENTAGE
51-47 N/A	51-48 N/A	51-49 N/A
51-50 N/A	51-51 II	51-52 N/A
51-53 <845	51-54 III	51-55 15%
51-56 <842	51-57 IV	51-58 15%

51-47 For a total of 30 percent of the permitted withdrawals in critical
 51-48 period Stage IV.

51-49 (c) The authority shall continuously track the average
 51-50 daily discharge rate measured over each period of five consecutive
 51-51 days at Comal Springs to determine whether a reduction in
 51-52 withdrawals to the Stage III reduction level is required. The
 51-53 authority shall track the average daily discharge rate measured for
 51-54 any five days in a period of 10 consecutive days to determine
 51-55 whether a reduction in withdrawals to the Stage IV reduction level
 51-56 is required.

51-57 (d) From the effective date of this subsection, the
 51-58 authority shall not allow the volume of permitted withdrawals to
 51-59 exceed an annualized rate of 340,000 acre-feet, under critical
 51-60 period Stage IV. After January 1, 2012, the authority shall not
 51-61 allow the volume of permitted withdrawals to exceed an annualized
 51-62 rate of 320,000 acre-feet, under critical period Stage IV. After
 51-63 January 1, 2020, the authority shall not allow the volume of
 51-64 permitted withdrawals to exceed an annualized rate of 288,000
 51-65 acre-feet, under critical period Stage IV.

51-66 (e) From time to time, the authority by rule may amend the
 51-67 withdrawal reduction criteria of the authority's critical period
 51-68 management plan as set forth in Subsections (b) and (c), after
 51-69 review and consideration of the recommendations from the

52-1 Environmental Flows Commission, the Edwards Aquifer Area expert
 52-2 science team, and the Edwards Aquifer Area Stakeholders Committee,
 52-3 as prescribed in Section 1.26A of this article. The amended plan
 52-4 must be consistent with Section 1.14(a) of this article.

52-5 Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND
 52-6 STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) The Environmental
 52-7 Flows Commission, as established under Section 11.0236, Water Code,
 52-8 shall appoint a 15-member Edwards Aquifer Area Stakeholders
 52-9 Committee not later than January 1, 2006. The composition of the
 52-10 committee will be as follows:

52-11 (1) five Municipal Edwards Aquifer permit holders;
 52-12 (2) two Irrigation Edwards Aquifer permit holders;
 52-13 (3) three Industrial Edwards Aquifer permit holders;
 52-14 (4) four Downstream Water Rights holders in the
 52-15 Guadalupe River Basin; and

52-16 (5) one representative of a public interest group
 52-17 related to instream flows in the Guadalupe River Basin and bay and
 52-18 estuary inflows from the Guadalupe River.

52-19 (b) The Edwards Aquifer Area Stakeholders Committee shall
 52-20 appoint a seven-member Edwards Aquifer Area expert science team not
 52-21 later than April 30, 2006. The expert science team must be composed
 52-22 of technical experts with special expertise regarding the Edwards
 52-23 Aquifer system, spring flows, or the development of withdrawal
 52-24 limitations. Chapter 2110, Government Code, does not apply to the
 52-25 size, composition, or duration of the expert science team. A member
 52-26 of the Texas Environmental Flows science advisory committee
 52-27 established in Section 11.02361, Water Code, shall serve as liaison
 52-28 to the Edwards Aquifer Area expert science team.

52-29 (c) The expert science team shall develop an analysis of
 52-30 spring discharge rates and aquifer levels as a function of
 52-31 withdrawal levels. Based upon this analysis and the required
 52-32 elements to be considered by the authority in Section 1.14 of this
 52-33 article, the Edwards Aquifer Area expert science team shall,
 52-34 through a collaborative process designed to achieve consensus,
 52-35 create recommendations for withdrawal reduction levels and stages
 52-36 for critical period management and submit them to the Edwards
 52-37 Aquifer Area Stakeholders Committee, the Environmental Flows
 52-38 Commission, and the authority. The initial recommendations must be
 52-39 completed and submitted no later than September 30, 2006.

52-40 (d) In developing its recommendations, the Edwards Aquifer
 52-41 Area expert science team must consider all reasonably available
 52-42 science, including any Edwards Aquifer specific studies, and the
 52-43 recommendations must be based solely on the best science available.
 52-44 The Edwards Aquifer Area Stakeholders Committee may not change the
 52-45 recommendations of the Edwards Aquifer Area expert science team
 52-46 regarding the withdrawal limitations appropriate to achieve the
 52-47 purposes of Section 1.14 of this article.

52-48 (e) The Edwards Aquifer Area Stakeholders Committee shall
 52-49 review the withdrawal limitation and critical period management
 52-50 submitted by the expert science team and shall consider them in
 52-51 conjunction with other factors, including the present and future
 52-52 needs for water for other uses related to water supply planning in
 52-53 the Edwards Aquifer Area and the required elements to be considered
 52-54 by the authority in Section 1.14 of this article. The stakeholders
 52-55 committee shall develop recommendations regarding a critical
 52-56 period management plan and submit its recommendations to the
 52-57 authority and to the Environmental Flows Commission. In developing
 52-58 its recommendations, the stakeholders committee shall operate on a
 52-59 consensus basis to the maximum extent possible. The initial
 52-60 recommendations must be completed and submitted no later than
 52-61 October 31, 2006.

52-62 (f) The Environmental Flows Commission shall submit to the
 52-63 authority its comments on and recommendations regarding the Edwards
 52-64 Aquifer Area expert science team's recommended withdrawal
 52-65 reduction levels and stages for critical period management needed
 52-66 to maintain target spring discharge and aquifer levels. The
 52-67 withdrawal reduction recommendations shall be based upon a
 52-68 combination of spring discharge rates of the San Marcos and Comal
 52-69 Springs and levels at the J-17 and J-27 wells. The expert science

53-1 team shall submit its withdrawal recommendations to the Edwards
 53-2 Aquifer Area Stakeholders Committee, the Environmental Flows
 53-3 Commission, and the authority. The initial comments and
 53-4 recommendations must be submitted no later than November 30, 2006.

53-5 (g) The Edwards Aquifer Area expert science team, Edwards
 53-6 Aquifer Area Stakeholder Committee, and the Environmental Flows
 53-7 Commission shall submit recommendations to the authority for use in
 53-8 developing its rules relative to establishing the critical period
 53-9 management plan.

53-10 (h) Where reasonably practicable, meetings of the Edwards
 53-11 Aquifer Area expert science team and Edwards Aquifer Area
 53-12 Stakeholders Committee must be open to the public.

53-13 (i) In recognition of the importance of critical period
 53-14 management to adapt to changed conditions or information, after
 53-15 submitting its recommendations regarding withdrawal limitations
 53-16 and strategies to meet the spring flow needs to the authority, the
 53-17 stakeholders committee, with the assistance of the expert science
 53-18 team, shall prepare and submit to the Environmental Flows
 53-19 Commission a work plan. The work plan must:

53-20 (1) establish a periodic review of the critical period
 53-21 management plan, to occur at least once every five years;

53-22 (2) prescribe specific monitoring, studies, and
 53-23 activities; and

53-24 (3) establish a schedule for continuing the validation
 53-25 or refinement of the critical period management plan adopted by the
 53-26 authority, and the strategies to achieve the plan.

53-27 (j) To assist the flows commission to assess the extent to
 53-28 which the recommendations of the Edwards Aquifer Area expert
 53-29 science team are considered and implemented, the authority shall
 53-30 provide written reports to the flows commission, at intervals
 53-31 determined by the flows commission, that describe:

53-32 (1) the actions taken in response to each
 53-33 recommendation; and

53-34 (2) for each recommendation not implemented, the
 53-35 reason it was not implemented.

53-36 SECTION 5.06. Subsections (b) and (i), Section 1.29,
 53-37 Section 626, Acts of the 73rd Legislature, Regular Session, 1993,
 53-38 are amended to read as follows:

53-39 (b) The authority shall assess equitable aquifer management
 53-40 fees based on aquifer use under the water management plan to finance
 53-41 its administrative expenses and programs authorized under this
 53-42 article. Each water district governed by Chapter 36 [52], Water
 53-43 Code, that is within the authority's boundaries may contract with
 53-44 the authority to pay expenses of the authority through taxes in lieu
 53-45 of user fees to be paid by water users in the district. The contract
 53-46 must provide that the district will pay an amount equal to the
 53-47 amount that the water users in the district would have paid through
 53-48 user fees. The authority may not collect a total amount of fees and
 53-49 taxes that is more than is reasonably necessary for the
 53-50 administration of the authority.

53-51 (i) The authority shall provide money as necessary, but not
 53-52 to exceed \$75,000, annually adjusted for changes in the consumer
 53-53 price index [~~five percent of the money collected under Subsection~~
 53-54 ~~(d) of this section~~], to finance the South Central Texas Water
 53-55 Advisory Committee's administrative expenses and programs
 53-56 authorized under this article.

53-57 SECTION 5.07. Subsection (a), Section 1.45, Chapter 626,
 53-58 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
 53-59 read as follows:

53-60 (a) The authority may own, finance, design, construct,
 53-61 [build or] operate, and maintain recharge dams and associated
 53-62 facilities, structures, or works in the contributing or recharge
 53-63 area of the aquifer if the recharge is made to increase the yield of
 53-64 the aquifer and the recharge project does not impair senior water
 53-65 rights or vested riparian rights.

53-66 SECTION 5.08. The following sections of Chapter 626, Acts
 53-67 of the 73rd Legislature, Regular Session, 1993, are repealed:

53-68 (1) Subsections (b) and (d), Section 1.14;

53-69 (2) Section 1.21; and

54-1 (3) Subsections (a), (c), (d), and (h), Section 1.29.
54-2 ARTICLE 6. EFFECTIVE DATE
54-3 SECTION 6.01. Except as otherwise provided by this Act,
54-4 this Act takes effect September 1, 2005.

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