

By: Puente

H.B. No. 3

Substitute the following for H.B. No. 3:

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C.S.H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the management of the water resources of the state,
3 including the protection of instream flows and freshwater inflows.

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

5 SECTION 1. The heading to Section 5.506, Water Code, is
6 amended to read as follows:

7 Sec. 5.506. EMERGENCY SUSPENSION OF PERMIT CONDITION
8 RELATING TO, AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET
9 ASIDE FOR, BENEFICIAL INFLOWS TO AFFECTED BAYS AND ESTUARIES AND
10 INSTREAM USES.

11 SECTION 2. Section 5.506, Water Code, is amended by adding
12 Subsection (a-1) and amending Subsections (b) and (c) to read as
13 follows:

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

20 (b) The commission must give written notice of the proposed
21 action [~~suspension~~] to the Parks and Wildlife Department before the
22 commission suspends a permit condition under Subsection (a) or
23 makes water available temporarily under Subsection (a-1) [~~this~~
24 ~~section~~]. The commission shall give the Parks and Wildlife

1 Department an opportunity to submit comments on the proposed action
2 [~~suspension~~] for a period of 72 hours from receipt of the notice and
3 must consider those comments before issuing an order implementing
4 the proposed action [~~imposing the suspension~~].

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

9 SECTION 3. Section 5.701(j), Water Code, is amended to read
10 as follows:

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

18 SECTION 4. Section 11.002, Water Code, is amended by adding
19 Subdivisions (15), (16), (17), (18), and (19) to read as follows:

20 (15) "Environmental flow analysis" means the
21 application of a scientifically derived process for predicting the
22 response of an ecosystem to changes in instream flows or freshwater
23 inflows.

24 (16) "Environmental flow regime" means a schedule of
25 flow quantities that reflects seasonal and yearly fluctuations that
26 typically would vary geographically, by specific location in a
27 watershed, and that are shown to be adequate to support a sound

1 ecological environment and to maintain the productivity, extent,
2 and persistence of key aquatic habitats in and along the affected
3 water bodies.

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

6 (18) "Advisory group" means the environmental flows
7 advisory group.

8 (19) "Science advisory committee" means the Texas
9 environmental flows science advisory committee.

10 SECTION 5. Section 11.023(a), Water Code, is amended to
11 read as follows:

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

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

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

22 (3) mining and recovery of minerals;

23 (4) hydroelectric power;

24 (5) navigation;

25 (6) recreation and pleasure;

26 (7) public parks; and

27 (8) game preserves.

1 SECTION 6. Section 11.0235, Water Code, is amended by
2 amending Subsections (c) and (e) and adding Subsections (d-1)
3 through (d-6) and (f) to read as follows:

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

15 (d-1) The legislature has determined that existing water
16 rights that are converted to water rights for environmental
17 purposes should be enforced in a manner consistent with the
18 enforcement of water rights for other purposes as provided by the
19 laws of this state governing the appropriation of state water.

20 (d-2) The legislature finds that to provide certainty in
21 water management and development and to provide adequate protection
22 of the state's streams, rivers, and bays and estuaries, the state
23 must have a process with specific timelines for prompt action to
24 address environmental flow issues in the state's major basin and
25 bay systems, especially those systems in which unappropriated water
26 is still available.

27 (d-3) The legislature finds that:

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

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

11 (d-4) The legislature finds that while the state has
12 pioneered tools to address freshwater inflow needs for bays and
13 estuaries, there are limitations to those tools in light of both
14 scientific and public policy evolution. To fully address bay and
15 estuary environmental flow issues, the foundation of work
16 accomplished by the state should be improved. While the state's
17 instream flow studies program appears to encompass a comprehensive
18 and scientific approach for establishing a process to assess
19 instream flow needs for rivers and streams across the state, more
20 extensive review and examination of the details of the program,
21 which may not be fully developed until the program is under way, are
22 needed to ensure an effective tool for evaluating riverine
23 environmental flow conditions.

24 (d-5) The legislature finds that the management of water to
25 meet instream flow and freshwater inflow needs should be evaluated
26 on a regular basis and adapted to reflect both improvements in
27 science related to environmental flows and future changes in

1 projected human needs for water. In addition, the development of
2 management strategies for addressing environmental flow needs
3 should be an ongoing, adaptive process that considers and addresses
4 local issues.

5 (d-6) The legislature finds that recommendations for state
6 action to protect instream flows and freshwater inflows should be
7 developed through a consensus-based, regional approach involving
8 balanced representation of stakeholders and that such a process
9 should be encouraged throughout the state.

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

20 (f) The legislature recognizes that effective
21 implementation of the approach provided by this chapter for
22 protecting instream flows and freshwater inflows will require more
23 effective water rights administration and enforcement systems than
24 are currently available in most areas of the state.

25 SECTION 7. Subchapter B, Chapter 11, Water Code, is amended
26 by adding Sections 11.0236, 11.02361, 11.02362, and 11.0237 to read
27 as follows:

1 Sec. 11.0236. ENVIRONMENTAL FLOWS ADVISORY GROUP. (a) In
2 recognition of the importance that the ecological soundness of our
3 riverine, bay, and estuary systems and riparian lands has on the
4 economy, health, and well-being of the state there is created the
5 environmental flows advisory group.

6 (b) The advisory group is composed of nine members as
7 follows:

8 (1) three members appointed by the governor;

9 (2) three members of the senate appointed by the
10 lieutenant governor; and

11 (3) three members of the house of representatives
12 appointed by the speaker of the house of representatives.

13 (c) Of the members appointed under Subsection (b)(1):

14 (1) one member must be a member of the commission;

15 (2) one member must be a member of the board; and

16 (3) one member must be a member of the Parks and
17 Wildlife Commission.

18 (d) Each member of the advisory group serves at the will of
19 the person who appointed the member.

20 (e) The appointed senator with the most seniority and the
21 appointed house member with the most seniority serve together as
22 co-presiding officers of the advisory group.

23 (f) A member of the advisory group is not entitled to
24 receive compensation for service on the advisory group but is
25 entitled to reimbursement of the travel expenses incurred by the
26 member while conducting the business of the advisory group, as
27 provided by the General Appropriations Act.

1 (g) The advisory group may accept gifts and grants from any
2 source to be used to carry out a function of the advisory group.

3 (h) The commission shall provide staff support for the
4 advisory group.

5 (i) The advisory group shall conduct public hearings and
6 study public policy implications for balancing the demands on the
7 water resources of the state resulting from a growing population
8 with the requirements of the riverine, bay, and estuary systems
9 including granting permits for instream flows dedicated to
10 environmental needs or bay and estuary inflows, use of the Texas
11 Water Trust, and any other issues that the advisory group
12 determines have importance and relevance to the protection of
13 environmental flows. In evaluating the options for providing
14 adequate environmental flows, the advisory group shall take notice
15 of the strong public policy imperative that exists in this state
16 recognizing that environmental flows are important to the
17 biological health of our public and private lands, streams and
18 rivers, and bay and estuary systems and are high priorities in the
19 water management process. The advisory group shall specifically
20 address:

21 (1) ways that the ecological soundness of those
22 systems will be ensured in the water rights administration and
23 enforcement and water allocation processes; and

24 (2) appropriate methods to encourage persons
25 voluntarily to convert reasonable amounts of existing water rights
26 to use for environmental flow protection temporarily or
27 permanently.

1 (j) The advisory group may adopt rules, procedures, and
2 policies as needed to administer this section, to implement its
3 responsibilities, and to exercise its authority under Sections
4 11.02361 and 11.02362.

5 (k) Chapter 2110, Government Code, does not apply to the
6 size, composition, or duration of the advisory group.

7 (l) Not later than December 1, 2008, and every two years
8 thereafter, the advisory group shall issue and promptly deliver to
9 the governor, lieutenant governor, and speaker of the house of
10 representatives copies of a report summarizing:

11 (1) any hearings conducted by the advisory group;

12 (2) any studies conducted by the advisory group;

13 (3) any legislation proposed by the advisory group;

14 (4) progress made in implementing Sections 11.02361
15 and 11.02362; and

16 (5) any other findings and recommendations of the
17 advisory group.

18 (m) The advisory group is abolished on the date that the
19 commission has adopted environmental flow standards under Section
20 11.1471 for all of the river basin and bay systems in this state.

21 Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE ADVISORY
22 COMMITTEE. (a) The Texas environmental flows science advisory
23 committee consists of at least five but not more than nine members
24 appointed by the advisory group.

25 (b) The advisory group shall appoint to the science advisory
26 committee persons who will provide an objective perspective and
27 diverse technical expertise, including expertise in hydrology,

1 hydraulics, water resources, aquatic and terrestrial biology,
2 geomorphology, geology, water quality, computer modeling, and
3 other technical areas pertinent to the evaluation of environmental
4 flows.

5 (c) Members of the science advisory committee serve
6 five-year terms expiring March 1. A vacancy on the science advisory
7 committee is filled by appointment by the co-presiding officers of
8 the advisory group for the unexpired term.

9 (d) Chapter 2110, Government Code, does not apply to the
10 size, composition, or duration of the science advisory committee.

11 (e) The science advisory committee shall:

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

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

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

19 (B) environmental flow programs at the
20 commission, the Parks and Wildlife Department, and the board; and

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

23 (f) To assist the advisory group to assess the extent to
24 which the recommendations of the science advisory committee are
25 considered and implemented, the commission, the Parks and Wildlife
26 Department, and the board shall provide written reports to the
27 advisory group, at intervals determined by the advisory group, that

1 describe:

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

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

6 (g) The science advisory committee is abolished on the date
7 the advisory group is abolished under Section 11.0236(m).

8 Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME
9 RECOMMENDATIONS. (a) For the purposes of this section, the
10 advisory group, not later than November 1, 2007, shall define the
11 geographical extent of each river basin and bay system in this state
12 for the sole purpose of developing environmental flow regime
13 recommendations under this section and adoption of environmental
14 flow standards under Section 11.1471.

15 (b) The advisory group shall give priority in descending
16 order to the following river basin and bay systems of the state for
17 the purpose of developing environmental flow regime
18 recommendations and adopting environmental flow standards:

19 (1) the river basin and bay system consisting of the
20 Trinity and San Jacinto Rivers and Galveston Bay and the river basin
21 and bay system consisting of the Sabine and Neches Rivers and Sabine
22 Lake Bay;

23 (2) the river basin and bay system consisting of the
24 Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the
25 river basin and bay system consisting of the Guadalupe, San
26 Antonio, and Aransas Rivers and Copano, Aransas, and San Antonio
27 Bays; and

1 (3) the river basin and bay system consisting of the
2 Nueces River and Corpus Christi and Baffin Bays, the river basin and
3 bay system consisting of the Rio Grande, the Rio Grande estuary, and
4 the Lower Laguna Madre, and the Brazos River and its associated bay
5 and estuary system.

6 (c) For the river basin and bay systems listed in Subsection
7 (b)(1):

8 (1) the advisory group shall appoint the basin and bay
9 area stakeholders committee not later than November 1, 2007;

10 (2) the basin and bay area stakeholders committee
11 shall establish a basin and bay expert science team not later than
12 March 1, 2008;

13 (3) the basin and bay expert science team shall
14 finalize environmental flow regime recommendations and submit them
15 to the basin and bay area stakeholders committee, the advisory
16 group, and the commission not later than March 1, 2009;

17 (4) the basin and bay area stakeholders committee
18 shall submit to the commission its comments on and recommendations
19 regarding the basin and bay expert science team's recommended
20 environmental flow regime not later than September 1, 2009; and

21 (5) the commission shall adopt the environmental flow
22 standards as provided by Section 11.1471 not later than September
23 1, 2010.

24 (d) The advisory group shall appoint the basin and bay area
25 stakeholders committees for the river basin and bay systems listed
26 in Subsection (b)(2) not later than September 1, 2008, and shall
27 appoint the basin and bay area stakeholders committees for the

1 river basin and bay systems listed in Subsection (b)(3) not later
2 than September 1, 2009. The advisory group shall establish a
3 schedule for the performance of the tasks listed in Subsections
4 (c)(2) through (5) with regard to the river basin and bay systems
5 listed in Subsections (b)(2) and (3) that will result in the
6 adoption of environmental flow standards for that river basin and
7 bay system by the commission as soon as is reasonably possible.
8 Each basin and bay area stakeholders committee and basin and bay
9 expert science team for a river basin and bay system listed in
10 Subsection (b)(2) or (3) shall make recommendations to the advisory
11 group with regard to the schedule applicable to that river basin and
12 bay system. The advisory group shall consider the recommendations
13 of the basin and bay area stakeholders committee and basin and bay
14 expert science team as well as coordinate with, and give
15 appropriate consideration to the recommendations of, the
16 commission, the Parks and Wildlife Department, and the board in
17 establishing the schedule.

18 (e) For a river basin and bay system or a river basin that
19 does not have an associated bay system in this state not listed in
20 Subsection (b), the advisory group shall establish a schedule for
21 the development of environmental flow regime recommendations and
22 the adoption of environmental flow standards. The advisory group
23 shall develop the schedule in consultation with the commission, the
24 Parks and Wildlife Department, the board, and the pertinent basin
25 and bay area stakeholders committee and basin and bay expert
26 science team. The advisory group may, on its own initiative or on
27 request, modify a schedule established under this subsection to be

1 more responsive to particular circumstances, local desires,
2 changing conditions, or time-sensitive conflicts. This subsection
3 does not prohibit, in a river basin and bay system for which the
4 advisory group has not yet established a schedule for the
5 development of environmental flow regime recommendations and the
6 adoption of environmental flow standards, an effort to develop
7 information on environmental flow needs and ways in which those
8 needs can be met by a voluntary consensus-building process.

9 (f) The advisory group shall appoint a basin and bay area
10 stakeholders committee for each river basin and bay system in this
11 state for which a schedule for the development of environmental
12 flow regime recommendations and the adoption of environmental flow
13 standards is specified by or established under Subsection (c), (d),
14 or (e). Chapter 2110, Government Code, does not apply to the size,
15 composition, or duration of a basin and bay area stakeholders
16 committee. Each committee must consist of at least 17 members. The
17 membership of each committee must:

18 (1) reflect a fair and equitable balance of interest
19 groups concerned with the particular river basin and bay system for
20 which the committee is established; and

21 (2) be representative of appropriate stakeholders,
22 including the following if they have a presence in the particular
23 river basin and bay system for which the committee is established:

24 (A) agricultural water users;

25 (B) recreational water users, including coastal
26 recreational anglers and businesses supporting water recreation;

27 (C) municipalities;

1 (D) soil and water conservation districts;

2 (E) industrial water users, including
3 representatives of each of the following sectors:

4 (i) refining;

5 (ii) chemical manufacturing;

6 (iii) electricity generation; and

7 (iv) production of paper products or
8 timber;

9 (F) commercial fishermen;

10 (G) public interest groups;

11 (H) regional water planning groups;

12 (I) groundwater conservation districts;

13 (J) river authorities and other conservation and
14 reclamation districts with jurisdiction over surface water; and

15 (K) environmental interests.

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

20 (h) Meetings of a basin and bay area stakeholders committee
21 must be open to the public.

22 (i) Each basin and bay area stakeholders committee shall
23 establish a basin and bay expert science team for the river basin
24 and bay system for which the committee is established. The basin
25 and bay expert science team must be established not later than six
26 months after the date the basin and bay area stakeholders committee
27 is established. Chapter 2110, Government Code, does not apply to

1 the size, composition, or duration of a basin and bay expert science
2 team. Each basin and bay expert science team must be composed of
3 technical experts with special expertise regarding the river basin
4 and bay system or regarding the development of environmental flow
5 regimes. A person may serve as a member of more than one basin and
6 bay expert science team at the same time.

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

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

22 (l) Where reasonably practicable, meetings of a basin and
23 bay expert science team must be open to the public.

24 (m) Each basin and bay expert science team shall develop
25 environmental flow analyses and a recommended environmental flow
26 regime for the river basin and bay system for which the team is
27 established through a collaborative process designed to achieve a

1 consensus. In developing the analyses and recommendations, the
2 science team must consider all reasonably available science,
3 without regard to the need for the water for other uses, and the
4 science team's recommendations must be based solely on the best
5 science available. For the Rio Grande below Fort Quitman, any uses
6 attributable to Mexican water flows must be excluded from
7 environmental flow regime recommendations.

8 (n) Each basin and bay expert science team shall submit its
9 environmental flow analyses and environmental flow regime
10 recommendations to the pertinent basin and bay area stakeholders
11 committee, the advisory group, and the commission in accordance
12 with the applicable schedule specified by or established under
13 Subsection (c), (d), or (e). The basin and bay area stakeholders
14 committee and the advisory group may not change the environmental
15 flow analyses or environmental flow regime recommendations of the
16 basin and bay expert science team.

17 (o) Each basin and bay area stakeholders committee shall
18 review the environmental flow analyses and environmental flow
19 regime recommendations submitted by the committee's basin and bay
20 expert science team and shall consider them in conjunction with
21 other factors, including the present and future needs for water for
22 other uses related to water supply planning in the pertinent river
23 basin and bay system. For the Rio Grande, the basin and bay area
24 stakeholders committee shall also consider the water accounting
25 requirements for any international water sharing treaty, minutes,
26 and agreement applicable to the Rio Grande and the effects on
27 allocation of water by the Rio Grande watermaster in the middle and

1 lower Rio Grande. The Rio Grande basin and bay expert science team
2 may not recommend any environmental flow regime that would result
3 in a violation of a treaty or court decision. The basin and bay area
4 stakeholders committee shall develop recommendations regarding
5 environmental flow standards and strategies to meet the
6 environmental flow standards and submit those recommendations to
7 the commission and to the advisory group in accordance with the
8 applicable schedule specified by or established under Subsection
9 (c), (d), or (e). In developing its recommendations, the basin and
10 bay area stakeholders committee shall operate on a consensus basis
11 to the maximum extent possible.

12 (p) In recognition of the importance of adaptive
13 management, after submitting its recommendations regarding
14 environmental flow standards and strategies to meet the
15 environmental flow standards to the commission, each basin and bay
16 area stakeholders committee, with the assistance of the pertinent
17 basin and bay expert science team, shall prepare and submit for
18 approval by the advisory group a work plan. The work plan must:

19 (1) establish a periodic review of the basin and bay
20 environmental flow analyses and environmental flow regime
21 recommendations, environmental flow standards, and strategies, to
22 occur at least once every 10 years;

23 (2) prescribe specific monitoring, studies, and
24 activities; and

25 (3) establish a schedule for continuing the validation
26 or refinement of the basin and bay environmental flow analyses and
27 environmental flow regime recommendations, the environmental flow

1 standards adopted by the commission, and the strategies to achieve
2 those standards.

3 (g) In accordance with the applicable schedule specified by
4 or established under Subsection (c), (d), or (e), the advisory
5 group, with input from the science advisory committee, shall review
6 the environmental flow analyses and environmental flow regime
7 recommendations submitted by each basin and bay expert science
8 team. If appropriate, the advisory group shall submit comments on
9 the analyses and recommendations to the commission for use by the
10 commission in adopting rules under Section 11.1471. Comments must
11 be submitted not later than six months after the date of receipt of
12 the analyses and recommendations.

13 (r) Notwithstanding the other provisions of this section,
14 in the event the commission, by permit or order, has established an
15 estuary advisory council with duties specifically related to the
16 implementation of permit conditions for environmental flows, that
17 council may continue in full force and effect and shall act as and
18 perform the duties of the basin and bay area stakeholders committee
19 for the applicable river basin and bay system as provided by this
20 section. The commission shall appoint additional members to an
21 estuary advisory council as necessary so that the composition of
22 the council conforms to the requirements of Subsection (f) for the
23 composition of a basin and by area stakeholders committee.

24 (s) Each basin and bay area stakeholders committee and basin
25 and bay expert science team is abolished on the date the advisory
26 group is abolished under Section 11.0236(m).

27 Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO

1 ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The commission
2 may not issue a new permit for instream flows dedicated to
3 environmental needs or bay and estuary inflows. The commission may
4 approve an application to amend an existing permit or certificate
5 of adjudication to change the use to or add a use for instream flows
6 dedicated to environmental needs or bay and estuary inflows.

7 (b) This section does not alter the commission's
8 obligations under Section 11.042(b) or (c), 11.046(b),
9 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491,
10 11.150, 11.152, 16.058, or 16.059.

11 SECTION 8. Section 11.082(b), Water Code, is amended to
12 read as follows:

13 (b) The state may recover the penalties prescribed in
14 Subsection (a) [~~of this section~~] by suit brought for that purpose in
15 a court of competent jurisdiction. The state may seek those
16 penalties regardless of whether a watermaster has been appointed
17 for the water division, river basin, or segment of a river basin
18 where the unlawful use is alleged to have occurred.

19 SECTION 9. Section 11.0841, Water Code, is amended by
20 adding Subsection (c) to read as follows:

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

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

26 (2) the right to act in the same manner that a holder
27 of a water right may act to protect the holder's rights in seeking

1 to prevent any person from appropriating water in violation of a
2 set-aside established by the commission under Section 11.1471 to
3 meet instream flow needs or freshwater inflow needs; and

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

6 SECTION 10. Section 11.0842(a), Water Code, is amended to
7 read as follows:

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

17 SECTION 11. Section 11.0843(a), Water Code, is amended to
18 read as follows:

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

26 (1) without admitting to or denying the alleged
27 violation, paying an administrative penalty in accordance with the

1 predetermined penalty amount established under Subsection (b) [~~of~~
2 ~~this section~~] and taking remedial action as provided in the
3 citation; or

4 (2) requesting a hearing on the alleged violation in
5 accordance with Section 11.0842 [~~of this code~~].

6 SECTION 12. Section 11.134(b), Water Code, is amended to
7 read as follows:

8 (b) The commission shall grant the application only if:

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

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

14 (3) the proposed appropriation:

15 (A) is intended for a beneficial use;

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

18 (C) is not detrimental to the public welfare;

19 (D) considers any applicable environmental flow
20 standards established under Section 11.1471 and, if applicable, the
21 assessments performed under Sections 11.147(d) and (e) and Sections
22 11.150, 11.151, and 11.152; and

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

1 (4) the applicant has provided evidence that
2 reasonable diligence will be used to avoid waste and achieve water
3 conservation as defined by [~~Subdivision (8)(B),~~] Section
4 11.002(8)(B) [~~11.002~~].

5 SECTION 13. Section 11.147, Water Code, is amended by
6 amending Subsections (b), (d), and (e) and adding Subsections
7 (e-1), (e-2), and (e-3) to read as follows:

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

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

- 1 (1) the studies mandated by Section 16.059; and
2 (2) any water quality assessment performed under
3 Section 11.150.

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

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

- 27 (1) in combination with any previous adjustments made

1 under this subsection may not increase the amount of the
2 pass-through or release requirement for the protection of instream
3 flows or freshwater inflows by more than 12.5 percent of the
4 annualized total of that requirement contained in the permit as
5 issued or of that requirement contained in the amended water right
6 and applicable only to the increase in the amount of water
7 authorized to be stored, taken, or diverted under the amended water
8 right;

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

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

21 (e-2) Any water right holder who makes a contribution or
22 amends a water right as described by Subsection (e-1)(3) is
23 entitled to appropriate credit for the benefits of the contribution
24 or amendment against the adjustment of the holder's water right
25 under Subsection (e-1).

26 (e-3) Notwithstanding Subsections (b)-(e), for the purpose
27 of determining the environmental flow conditions necessary to

1 maintain freshwater inflows to an affected bay and estuary system,
2 existing instream uses and water quality of a stream or river, or
3 fish and aquatic wildlife habitats, the commission shall apply any
4 applicable environmental flow standard, including any
5 environmental flow set-aside, adopted under Section 11.1471
6 instead of considering the factors specified by those subsections.

7 SECTION 14. Subchapter D, Chapter 11, Water Code, is
8 amended by adding Section 11.1471 to read as follows:

9 Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES.

10 (a) The commission by rule shall:

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

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

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

23 (b) In adopting environmental flow standards for a river
24 basin and bay system under Subsection (a)(1), the commission shall
25 consider:

26 (1) the definition of the geographical extent of the
27 river basin and bay system adopted by the advisory group under

1 Section 11.02362(a) and the definition and designation of the river
2 basin by the board under Section 16.051(c);

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

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

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

13 (5) any comments submitted by the advisory group to
14 the commission under Section 11.02362(q);

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

17 (7) economic factors;

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

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

23 (10) any other appropriate information.

24 (c) Environmental flow standards adopted under Subsection
25 (a)(1) must consist of a schedule of flow quantities, reflecting
26 seasonal and yearly fluctuations that may vary geographically by
27 specific location in a river basin and bay system.

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

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

22 (f) An environmental flow standard or environmental flow
23 set-aside adopted under Subsection (a) may be altered by the
24 commission in a rulemaking process undertaken in accordance with a
25 schedule established by the commission. In establishing a
26 schedule, the commission shall consider the applicable work plan
27 approved by the advisory group under Section 11.02362(p). The

1 commission's schedule may not provide for the rulemaking process to
2 occur more frequently than once every 10 years unless the work plan
3 provides for a periodic review under Section 11.02362(p) to occur
4 more frequently than once every 10 years. In that event, the
5 commission may provide for the rulemaking process to be undertaken
6 in conjunction with the periodic review if the commission
7 determines that schedule to be appropriate. A rulemaking process
8 undertaken under this subsection must provide for the participation
9 of stakeholders having interests in the particular river basin and
10 bay system for which the process is undertaken.

11 SECTION 15. The heading to Section 11.148, Water Code, is
12 amended to read as follows:

13 Sec. 11.148. EMERGENCY SUSPENSION OF PERMIT CONDITIONS AND
14 EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR
15 ENVIRONMENTAL FLOWS.

16 SECTION 16. Section 11.148, Water Code, is amended by
17 adding Subsection (a-1) and amending Subsections (b) and (c) to
18 read as follows:

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

25 (b) Before the commission suspends a permit condition under
26 Subsection (a) or makes water available temporarily under
27 Subsection (a-1) [~~of this section~~], it must give written notice to

1 the Parks and Wildlife Department of the proposed action
2 [~~suspension~~]. The commission shall give the Parks and Wildlife
3 Department an opportunity to submit comments on the proposed action
4 [~~suspension~~] within 72 hours from such time and the commission
5 shall consider those comments before issuing its order implementing
6 the proposed action [~~imposing the suspension~~].

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

15 SECTION 17. Section 11.1491(a), Water Code, is amended to
16 read as follows:

17 (a) The Parks and Wildlife Department and the commission
18 shall have joint responsibility to review the studies prepared
19 under Section 16.058 [~~of this code~~], to determine inflow conditions
20 necessary for the bays and estuaries, and to provide information
21 necessary for water resources management. Each agency shall
22 designate an employee to share equally in the oversight of the
23 program. Other responsibilities shall be divided between the Parks
24 and Wildlife Department and the commission to maximize present
25 in-house capabilities of personnel and to minimize costs to the
26 state. Each agency shall have reasonable access to all information
27 produced by the other agency. Publication of reports completed

1 under this section shall be submitted for comment to [~~both~~] the
2 commission, [~~and~~] the Parks and Wildlife Department, the advisory
3 group, the science advisory committee, and any applicable basin and
4 bay area stakeholders committee and basin and bay expert science
5 team.

6 SECTION 18. Section 11.329(g), Water Code, is amended to
7 read as follows:

8 (g) The commission may not assess costs under this section
9 against a holder of a non-priority hydroelectric right that owns or
10 operates privately owned facilities that collectively have a
11 capacity of less than two megawatts or against a holder of a water
12 right placed in the Texas Water Trust for a term of at least 20
13 years. [~~This subsection is not intended to affect in any way the~~
14 ~~fees assessed on a water right holder by the commission under~~
15 ~~Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular~~
16 ~~Session, 1993. For purposes of Section 1.29(d), Chapter 626, Acts~~
17 ~~of the 73rd Legislature, Regular Session, 1993, a holder of a~~
18 ~~non-priority hydroelectric right that owns or operates privately~~
19 ~~owned facilities that collectively have a capacity of less than two~~
20 ~~megawatts shall be assessed fees at the same rate per acre-foot~~
21 ~~charged to a holder of a non-priority hydroelectric right that owns~~
22 ~~or operates privately owned facilities that collectively have a~~
23 ~~capacity of more than two megawatts.]~~

24 SECTION 19. Section 11.404(e), Water Code, is amended to
25 read as follows:

26 (e) The court may not assess costs and expenses under this
27 section against:

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

4 (2) a holder of a water right placed in the Texas Water
5 Trust for a term of at least 20 years.

6 SECTION 20. Subchapter I, Chapter 11, Water Code, is
7 amended by adding Section 11.4531 to read as follows:

8 Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For
9 each river basin or segment of a river basin for which the executive
10 director appoints a watermaster under this subchapter, the
11 executive director shall appoint a watermaster advisory committee
12 consisting of at least nine but not more than 15 members. A member
13 of the advisory committee must be a holder of a water right or a
14 representative of a holder of a water right in the river basin or
15 segment of the river basin for which the watermaster is appointed.
16 In appointing members to the advisory committee, the executive
17 director shall consider:

18 (1) geographic representation;

19 (2) amount of water rights held;

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

23 (4) experience and knowledge of water management
24 practices.

25 (b) An advisory committee member is not entitled to
26 reimbursement of expenses or to compensation.

27 (c) An advisory committee member serves a two-year term

1 expiring August 31 of each odd-numbered year and holds office until
2 a successor is appointed.

3 (d) The advisory committee shall meet within 30 days after
4 the date the initial appointments have been made and shall select a
5 presiding officer to serve a one-year term. The committee shall
6 meet regularly as necessary.

7 (e) The advisory committee shall:

8 (1) make recommendations to the executive director
9 regarding activities of benefit to the holders of water rights in
10 the administration and distribution of water to holders of water
11 rights in the river basin or segment of the river basin for which
12 the watermaster is appointed;

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

15 (3) perform other advisory duties as requested by the
16 executive director regarding the watermaster operation or as
17 requested by holders of water rights and considered by the
18 committee to benefit the administration of water rights in the
19 river basin or segment of the river basin for which the watermaster
20 is appointed.

21 SECTION 21. Sections 11.454 and 11.455, Water Code, are
22 amended to read as follows:

23 Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER.
24 Section 11.327 applies to the duties and authority of a watermaster
25 appointed for a river basin or segment of a river basin under this
26 subchapter in the same manner as that section applies to the duties
27 and authority of a watermaster appointed for a water division under

1 Subchapter G [~~A watermaster as the agent of the commission and under~~
2 ~~the executive director's supervision shall:~~

3 [~~(1) divide the water of the streams or other sources~~
4 ~~of supply of his segment or basin in accordance with the authorized~~
5 ~~water rights,~~

6 [~~(2) regulate or cause to be regulated the controlling~~
7 ~~works of reservoirs and diversion works in time of water shortage,~~
8 ~~as is necessary because of the rights existing in the streams of his~~
9 ~~segment or basin, or as is necessary to prevent the waste of water~~
10 ~~or its diversion, taking, storage, or use in excess of the~~
11 ~~quantities to which the holders of water rights are lawfully~~
12 ~~entitled; and~~

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

15 Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER
16 [ASSESSMENTS]. (a) Section 11.329 applies to the payment of the
17 compensation and expenses of a watermaster appointed for a river
18 basin or segment of a river basin under this subchapter in the same
19 manner as that section applies to the payment of the compensation
20 and expenses of a watermaster appointed for a water division under
21 Subchapter G.

22 (b) The executive director shall deposit the assessments
23 collected under this section to the credit of the watermaster fund.

24 (c) Money deposited under this section to the credit of the
25 watermaster fund may be used only for the purposes specified by
26 Section 11.3291 with regard to the watermaster operation under this
27 subchapter with regard to which the assessments were collected [~~The~~

1 ~~commission may assess the costs of the watermaster against all~~
2 ~~persons who hold water rights in the river basin or segment of the~~
3 ~~river basin under the watermaster's jurisdiction in accordance with~~
4 ~~Section 11.329 of this code].~~

5 SECTION 22. Subchapter F, Chapter 15, Water Code, is
6 amended by adding Section 15.4063 to read as follows:

7 Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. The board may
8 authorize the use of money in the research and planning fund:

9 (1) to compensate the members of the Texas
10 environmental flows science advisory committee established under
11 Section 11.02361 for attendance and participation at meetings of
12 the committee and for transportation, meals, lodging, or other
13 travel expenses associated with attendance at those meetings as
14 provided by the General Appropriations Act;

15 (2) for contracts with cooperating state and federal
16 agencies and universities and with private entities as necessary to
17 provide technical assistance to enable the Texas environmental
18 flows science advisory committee and the basin and bay expert
19 science teams established under Section 11.02362 to perform their
20 statutory duties;

21 (3) to compensate the members of the basin and bay
22 expert science teams established under Section 11.02362 for
23 attendance and participation at meetings of the basin and bay
24 expert science teams and for transportation, meals, lodging, or
25 other travel expenses associated with attendance at those meetings
26 as provided by the General Appropriations Act; and

27 (4) for contracts with political subdivisions

1 designated as representatives of basin and bay area stakeholders
2 committees established under Section 11.02362 to fund all or part
3 of the administrative expenses incurred in conducting meetings of
4 the basin and bay area stakeholders committees or the pertinent
5 basin and bay expert science teams.

6 SECTION 23. Section 16.059(d), Water Code, is amended to
7 read as follows:

8 (d) The priority studies shall be completed not later than
9 December 31, 2016 [~~2010~~]. The Parks and Wildlife Department, the
10 commission, and the board shall establish a work plan that
11 prioritizes the studies and that sets interim deadlines providing
12 for publication of flow determinations for individual rivers and
13 streams on a reasonably consistent basis throughout the prescribed
14 study period. Before publication, completed studies shall be
15 submitted for comment to the commission, the board, and the Parks
16 and Wildlife Department.

17 SECTION 24. Section 26.0135(h), Water Code, as amended by
18 Chapters 234 and 965, Acts of the 77th Legislature, Regular
19 Session, 2001, is reenacted and amended to read as follows:

20 (h) The commission shall apportion, assess, and recover the
21 reasonable costs of administering the water quality management
22 programs under this section from users of water and wastewater
23 permit holders in the watershed according to the records of the
24 commission generally in proportion to their right, through permit
25 or contract, to use water from and discharge wastewater in the
26 watershed. Irrigation water rights, ~~and~~ non-priority
27 hydroelectric rights of a water right holder that owns or operates

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

1 the speaker of the house of representatives on or before December 1
2 of each even-numbered year.

3 SECTION 25. Section 11.1491(b), Water Code, is repealed.

4 SECTION 26. (a) The governor, lieutenant governor, and
5 speaker of the house of representatives shall appoint the initial
6 members of the environmental flows advisory group as provided by
7 Section 11.0236, Water Code, as added by this Act, as soon as
8 practicable on or after the effective date of this Act.

9 (b) As soon as practicable after taking office, the initial
10 members of the environmental flows advisory group shall appoint the
11 initial members of the Texas environmental flows science advisory
12 committee as provided by Section 11.02361, Water Code, as added by
13 this Act. The terms of the initial members of the committee expire
14 March 1, 2012.

15 (c) The environmental flows advisory group shall appoint
16 the members of each basin and bay area stakeholders committee as
17 provided by Section 11.02362, Water Code, as added by this Act. The
18 terms of the initial members of each committee expire March 1 of the
19 fifth year that begins after the year in which the initial
20 appointments are made.

21 (d) Each basin and bay area stakeholders committee shall
22 appoint the members of the basin and bay expert science team for the
23 river basin and bay system for which the committee is established as
24 provided by Section 11.02362, Water Code, as added by this Act. The
25 terms of the initial members of each team expire April 1 of the
26 fifth year that begins after the year in which the initial
27 appointments are made.

1 (e) The executive director of the Texas Commission on
2 Environmental Quality shall appoint the members of the watermaster
3 advisory committee under Section 11.4531, Water Code, as added by
4 this Act, for each river basin or segment of a river basin for which
5 the executive director appoints a watermaster under Subchapter I,
6 Chapter 11, Water Code. The terms of the initial members of each
7 committee expire August 31 of the first odd-numbered year that
8 begins after the year in which the initial appointments are made.

9 SECTION 27. The changes in law made by this Act relating to
10 a permit for a new appropriation of water or to an amendment to an
11 existing water right that increases the amount of water authorized
12 to be stored, taken, or diverted apply only to:

13 (1) water appropriated under a permit for a new
14 appropriation of water the application for which is pending with
15 the Texas Commission on Environmental Quality on the effective date
16 of this Act or is filed with the commission on or after that date; or

17 (2) the increase in the amount of water authorized to
18 be stored, taken, or diverted under an amendment to an existing
19 water right that increases the amount of water authorized to be
20 stored, taken, or diverted and the application for which is pending
21 with the Texas Commission on Environmental Quality on the effective
22 date of this Act or is filed with the commission on or after that
23 date.

24 SECTION 28. This Act takes effect September 1, 2007.