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No equivalent provision.

ARTICLE \_\_. EDWARDS AQUIFER AUTHORITY.

No equivalent provision.

SECTION \_\_. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.125 to read as follows:

Sec. 361.125. PERMIT REQUIREMENTS FOR MUNICIPAL SOLID WASTE FACILITY ON RECHARGE OR TRANSITION ZONE OF SOLE SOURCE AQUIFER. (a) In this section:

(1) "Recharge zone" and "transition zone" have the meanings assigned by 30 T.A.C. Section 213.3.

(2) "Sole source aquifer" means an aquifer that is the sole or principal source of drinking water for an area designated under Section 1424(e), Safe Drinking Water Act (42 U.S.C. Section 300h-3(e)).

(b) The commission by rule shall:

(1) impose heightened standards for the issuance of a permit for a municipal solid waste facility, including a recycling facility, under this chapter if the facility is located on the recharge zone or transition zone of a sole source aquifer;

(2) require a municipal solid waste facility, including a recycling facility, that is located on the recharge zone of a sole source aquifer to install groundwater protection features, such as liners and monitoring wells, specified by the commission; and

(3) require a recycling facility that is located on the recharge zone or transition zone of a sole source aquifer to establish fire lanes between piles of combustible

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materials.

No equivalent provision.

SECTION \_\_. Subsection (f), Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(f) The authority may own, finance, design, ~~contract with a person who uses water from the aquifer for the authority or that person to~~ construct, operate, or ~~[own, finance, and]~~ maintain. recharge ~~water supply~~ facilities. ~~[Management fees or special fees may not be used for purchasing or operating these facilities.]~~For the purpose of this subsection, "recharge [water supply].facility" means [includes] a dam, reservoir, [treatment facility, transmission facility,] or other method of recharge project and associated facilities, structures, or works but does not include a facility to recirculate water at Comal or San Marcos Springs.

(1) The authority shall provide written notice of the intent to own, finance, design, construct, operate, or maintain recharge facilities to:

(a) each groundwater conservation district in the area in which the recharge facility will be located;

(b) the mayor of each municipality in the area in which the recharge facility will be located;

(c) the county judge of each county in the area in which the recharge facility will be located; and

(d) each member of the legislature who represents the area in which the proposed recharge facility will be located.

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(2) Any entity within the county in which a recharge facility is to be constructed will be provided opportunity for input and allowed to provide proposals for partnering with the authority to own, finance, design, construct, operate, or maintain these recharge facilities.

No equivalent provision.

SECTION \_\_. Subsections (a), (c), (e), (f), and (h), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

- (1) protect the water quality of the aquifer;
- (2) protect the water quality of the surface streams to which the aquifer provides springflow;
- (3) achieve water conservation;
- (4) maximize the beneficial use of water available for withdrawal from the aquifer;
- (5) recognize the extent of the hydro-geologic connection and interaction between surface water and groundwater;
- (6) protect aquatic and wildlife habitat;
- (7) [~~(6)~~] protect species that are designated as threatened or endangered under applicable federal or state law; and
- (8) [~~(7)~~] provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections [~~(d)~~,] (f)[~~]~~ and (h) of this section and Section 1.26 of this article, for the period beginning January 1, 2008, the amount of

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permitted withdrawals from the aquifer may not exceed or be less than 572,000 [400,000] acre-feet of water for each calendar year, which is the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement, test, or exempt wells or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit ~~[additional water as provided by Subsection (d) and then on an interruptible basis].~~

(f) If the level of the aquifer is equal to or greater than 660 [650] feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. If the level of the aquifer is equal to or greater than 845 feet at Well J-27, the authority may authorize withdrawal from the Uvalde pool, on an uninterruptible basis, of permitted amounts. ~~[The authority shall limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.]~~

(h) To accomplish the purposes of this article, ~~[by June 1, 1994,]~~ the authority, through a program, shall implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum

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springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. The authority from time to time as appropriate may revise the practices, procedures, and methods. To meet this requirement, the authority shall require:

- (1) phased adjustments to [reductions in] the amount of water that may be used or withdrawn by existing users or categories of other users, including adjustments in accordance with the authority's critical period management plan established under Section 1.26 of this article; or
- (2) implementation of alternative management practices, procedures, and methods.

No equivalent provision.

SECTION \_\_. Subsection (g), Section 1.16, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(g) The authority shall issue an initial regular permit without a term, and an initial regular permit remains in effect until the permit is abandoned or cancelled~~, or retired~~.

No equivalent provision.

SECTION \_\_. Subsection (b), Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

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(b) Withdrawal of water under a term permit must be consistent with the authority's critical period management plan established under Section 1.26 of this article. A holder of a term permit may not withdraw water from the San Antonio pool of the aquifer unless:

(1) the level of the aquifer is higher than 675 [665] feet above sea level, as measured at Well J-17;

(2) the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second; and

(3) the flow at San Marcos Springs as determined by Section 1.26(c) of this article is greater than 200 cubic feet per second.

No equivalent provision.

SECTION \_\_. Subsection (a), Section 1.22, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may acquire permitted rights to use water from the aquifer for the purposes of:

(1) holding those rights in trust for sale or transfer of the water or the rights to persons within the authority's jurisdiction who may use water from the aquifer;

(2) holding those rights in trust as a means of managing overall demand on the aquifer; or

(3) holding those rights for resale ~~for retirement as a means of complying with pumping reduction requirements under this article; or~~

~~[(4) retiring those rights, including those rights already permitted].~~

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SECTION \_\_. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Section 1.26 and adding Section 1.26A to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After review of the recommendations received in the program document, as prescribed by Section 1.26A of this article, the [The] authority by rule shall adopt [prepare and coordinate implementation of] a [plan for] critical period management plan consistent with Sections 1.14(a), (f), and (h) of this article [on or before September 1, 1995]. The critical period management plan shall be adopted by the authority no later than six months after the authority's receipt of the program document. On adoption of the critical period management plan, the authority shall provide a written report to the governor, lieutenant governor, and speaker of the house of representatives describing the actions taken in response to each recommendation and, for each recommendation not implemented, the reason it was not implemented. The plan [mechanisms] must:

- (1) distinguish between discretionary use and nondiscretionary use;
- (2) require reductions of all discretionary use to the maximum extent feasible;
- (3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; ~~and~~

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(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:  
 (A) municipal, domestic, and livestock;  
 (B) industrial and crop irrigation;  
 (C) residential landscape irrigation;  
 (D) recreational and pleasure; and  
 (E) other uses that are authorized by law; and  
 (5) allow irrigation use to continue in order to permit the user to complete the irrigation of a crop in progress.

(b) In this section, "MSL" means the elevation above mean sea level, measured in feet, of the surface of the water in a well, and "CFS" means cubic feet per second. Not later than January 1, 2008, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or the Comal or San Marcos Springs flow as applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 35 percent under Table 2:

TABLE 1  
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES  
FOR THE SAN ANTONIO POOL

<u>Comal Springs Flow</u>	<u>San Marcos Springs Flow</u>	<u>Index Well J-17 Level</u>	<u>Critical Period Stage</u>	<u>Withdrawal Reduction-San Antonio Pool</u>
<u>&lt;225 CFS</u>	<u>&lt;96 CFS</u>	<u>&lt;660 MSL</u>	<u>I</u>	<u>20%</u>
<u>&lt;200</u>	<u>&lt;80</u>	<u>&lt;650</u>	<u>II</u>	<u>30%</u>
<u>&lt;150</u>	<u>N/A</u>	<u>&lt;640</u>	<u>III</u>	<u>35%</u>
<u>&lt;100</u>	<u>N/A</u>	<u>&lt;630</u>	<u>IV</u>	<u>40%</u>



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TABLE 2  
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES  
FOR THE UVALDE POOL

<u>Withdrawal Reduction-</u> <u>Uvalde Pool</u>	<u>Index Well J-27</u> <u>Level MSL</u>	<u>Critical Period</u> <u>Stage</u>
<u>N/A</u>	<u>---</u>	<u>I</u>
<u>5%</u>	<u>&lt;850</u>	<u>II</u>
<u>20%</u>	<u>&lt;845</u>	<u>III</u>
<u>35%</u>	<u>&lt;842</u>	<u>IV</u>

(c) A change to a critical period stage with higher withdrawal reduction percentages is triggered if the 10-day average of daily springflows at the Comal Springs or the San Marcos Springs or the 10-day average of daily aquifer levels at the J-17 Index Well drops below the lowest number of any of the trigger levels indicated in Table 1. A change to a critical period stage with lower withdrawal reduction percentages is triggered only when the 10-day average of daily springflows at the Comal Springs and the San Marcos Springs and the 10-day average of daily aquifer levels at the J-17 Index Well are all above the same stage trigger level. The authority may adjust the withdrawal percentages for Stage IV in Tables 1 and 2 if necessary in order to comply with Subsection (d) or (e) of this section.

(d) Beginning September 1, 2007, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 340,000 acre-feet, under critical period Stage IV.

(e) After January 1, 2013, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 320,000 acre-feet, under critical period

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Stage IV unless, after review and consideration of the recommendations provided under Section 1.26A of this article, the authority determines that a different volume of withdrawals is consistent with Sections 1.14(a), (f), and (h) of this article in maintaining protection for listed, protected and endangered species associated with the aquifer to the extent required by federal law.

(f) Notwithstanding Subsections (d) and (e) of this section, the authority may require further withdrawal reductions before reviewing and considering the recommendations provided under Section 1.26A of this article if the discharge of Comal Springs or San Marcos Springs declines an additional 15 percent after Stage IV withdrawal reductions are imposed under Subsection (b) of this section. This subsection expires on the date that critical period management plan rules adopted by the authority based on the recommendations provided under Section 1.26A of this article take effect.

(g) Notwithstanding the existence of any stage of an interim or final critical period adopted by the authority under this section, a person authorized to withdraw groundwater from the aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed for that stage, be allowed to finish a crop already planted in the calendar year during which the critical period is in effect.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY IMPLEMENTATION PROGRAM. (a)

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The authority, with the assistance of Texas A&M University, shall cooperatively develop a recovery implementation program through a facilitated, consensus-based process that involves input from the United States Fish and Wildlife Service, other appropriate federal agencies, and all interested stakeholders, including those listed under Subsection (e)(1) of this section. The recovery implementation program shall be developed for the species that are:

(1) listed as threatened or endangered species under federal law; and

(2) associated with the aquifer.

(c) The authority shall enter into a memorandum of agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders in order to develop, not later than December 31, 2007, a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section.

(c) The authority shall enter into an implementing agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders to develop, a program document that may be in the form of a habitat conservation plan used in issuance of an

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incidental take permit as outlined in Subsection (d) of this section not later than December 31, 2009.

(d) The authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders shall jointly prepare a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit with the United States secretary of the interior, through the United States Fish and Wildlife Service and other appropriate federal agencies, under Section 4 or Section 6, Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as applicable, based on the program developed under Subsection (a) of this section. The program document shall:

(1) provide recommendations for withdrawal adjustments based on a combination of spring discharge rates of the San Marcos and Comal Springs and levels at the J-17 and J-27 wells during critical periods to ensure that federally listed, threatened, and endangered species associated with the Edwards Aquifer will be protected at all times, including throughout a repeat of the drought of record;

(2) include provisions to pursue cooperative and grant funding to the extent available from all state, federal, and other sources for eligible programs included in the cooperative agreement under Subsection (c) of this section, including funding for a program director; and

(3) be approved and executed by the authority, the Commission, the Parks and Wildlife Department, the

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Department of Agriculture, the Texas Water Development Board and the United States Fish and Wildlife Service not later than September 1, 2012, and the agreement shall take effect December 31, 2012.

(e) Texas A&M University shall assist in the creation of a steering committee to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. The steering committee must be created not later than September 30, 2007. The initial steering committee shall be composed of:

(1) a representative of each of the following entities, as appointed by the governing body of that entity:

(A) the Edwards Aquifer Authority;

(B) the Texas Commission on Environmental Quality;

(C) the Parks and Wildlife Department;

(D) the Department of Agriculture;

(E) the Texas Water Development Board;

(F) the San Antonio Water System;

(G) the Guadalupe-Blanco River Authority;

(H) the San Antonio River Authority;

(I) the South Central Texas Water Advisory Committee;

and

(J) Bexar County;

(K) CPS Energy; and

(L) Bexar Metropolitan Water District or its successor;

and

(2) nine other persons who respectively must be:

(A) a representative of a holder of an initial regular permit issued to a retail public utility located west of Bexar County, to be appointed by the authority;

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- (B) a representative of a holder of an initial regular permit issued by the authority for industrial purposes, to be appointed by the authority;
- (A) a representative of a holder of an industrial surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;
- (B) a representative of a holder of a municipal surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;
- (C) a representative of a retail public utility in whose service area the Comal Springs or San Marcos Springs is located;
- (D) a representative of a holder of an initial regular permit issued by the authority for irrigation, to be appointed by the commissioner of agriculture;
- (E) a representative of an agricultural producer from the Edwards Aquifer region, to be appointed by the commissioner of agriculture;
- (F) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and
- (G) a representative of recreational interests in the Guadalupe River Basin, to be appointed by the Parks and Wildlife Commission.
- (f) The steering committee shall work with Texas A&M University to:
  - (1) establish a regular meeting schedule and publish that schedule to encourage public participation; and

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(2) not later than October 31, 2007, hire a program director to be housed at Texas A&M University.

(g) Texas A&M University may accept outside funding to pay the salary and expenses of the program director hired under this section and any expenses associated with the university's participation in the creation of the steering committee or subcommittees established by the steering committee.

(h) Where reasonably practicable or as required by law, any meeting of the steering committee, the Edwards Aquifer area expert science subcommittee, or another subcommittee established by the steering committee must be open to the public.

(i) The steering committee appointed under this section shall appoint an Edwards Aquifer area expert science subcommittee not later than December 31, 2007. The expert science subcommittee must be composed of an odd number of not fewer than seven or more than 15 members who have technical expertise regarding the Edwards Aquifer system, the threatened and endangered species that inhabit that system, springflows, or the development of withdrawal limitations. The Bureau of Economic Geology of The University of Texas at Austin and the River Systems Institute at Texas State University shall assist the expert science subcommittee. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science subcommittee.

(j) The Edwards Aquifer area expert science subcommittee shall, among other things, analyze species

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requirements in relation to spring discharge rates and aquifer levels as a function of recharge and withdrawal levels. Based on that analysis and the elements required to be considered by the authority under Section 1.14 of this article, the expert science subcommittee shall, through a collaborative process designed to achieve consensus, develop recommendations for withdrawal reduction levels and stages: for critical period management including, if appropriate, establishing separate and possibly different withdrawal reduction levels and stages for critical period management for different pools of the aquifer needed to maintain target spring discharge and aquifer levels. The expert science subcommittee shall submit its recommendations to the steering committee and all other stakeholders involved in the recovery implementation program under this section.

(k) The initial recommendations of the Edwards Aquifer area expert science subcommittee must be completed and submitted to the Steering committee and other stakeholders not later than December 31, 2008, and should include an evaluation:

(1) of the option of designating a separate San Marcos pool, of how such a designation would affect existing pools, and of the need for an additional well to measure the San Marcos pool, if designated;

(2) of the necessity to maintain minimum springflows, including a specific review of the necessity to maintain a flow to protect the federally threatened and endangered species; and

(3) as to whether adjustments in the trigger levels for the



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San Marcos Springs flow for the San Antonio pool should be made.

(1) In developing its recommendations, the Edwards Aquifer area expert science subcommittee shall:

(1) consider all reasonably available science, including any Edwards Aquifer-specific studies, and base its recommendations solely on the best science available;

and

(2) operate on a consensus basis to the maximum extent possible.

(m) After development of the cooperative agreement, the steering committee, with the assistance of the Edwards Aquifer area expert science subcommittee and with input from the other recovery implementation program stakeholders, shall prepare and submit recommendations to the authority. The recommendations must:

(1) include a review of the critical period management plan, to occur at least once every five years;

(2) include specific monitoring, studies, and activities that take into account changed conditions and information that more accurately reflects the importance of critical period management; and

(3) establish a schedule for continuing the validation or refinement of the critical period management plan adopted by the authority and the strategies to achieve the program and cooperative agreement described by this section.

(n) In this subsection, "recharge facility" means a dam, reservoir, or other method of recharge project and

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associated facilities, structures, or works but does not include facilities designed to recirculate water at Comal or San Marcos Springs. The steering committee shall establish a recharge facility feasibility subcommittee to:

(1) assess the need for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(2) formulate plans to allow the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(3) make recommendations to the steering committee as to how to calculate the amount of additional water that is made available for use from a recharge project including during times of critical period reductions;

(4) maximize available federal funding for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; and

(5) evaluate the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating the facilities.

(o) The steering committee may establish other subcommittees as necessary, including a hydrology subcommittee, a community outreach and education subcommittee, and a water supply subcommittee.

(p) On execution of the memorandum of agreement described by Subsection (b) of this section, the steering committee described by Subsection (e) of this section may, by majority vote of its members, vote to add members to the steering committee, change the makeup of the committee, or dissolve the committee. If the

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steering committee is dissolved, the program director hired under Subsection (f) of this section shall assume the duties of the steering committee.

(q) The authority shall provide an annual report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 of each year that details:

(1) the status of the recovery implementation program development process;

(2) the likelihood of completion of the recovery implementation program and the cooperative agreement described by Subsection (c) of this section;

(3) the extent to which the recommendations of the Edwards Aquifer area expert science subcommittee are being considered and implemented by the authority;

(4) any other actions that need to be taken in response to each recommendation;

(5) reasons explaining why any recommendation received has not been implemented; and

(6) any other issues the authority considers of value for the efficient and effective completion of the program and the cooperative agreement under this section.

No equivalent provision.

SECTION \_\_. Subsections (b), (h), and (i), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance its administrative expenses

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and programs authorized under this article. Each water district governed by Chapter 36 [52], Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(h) Fees assessed by the authority may not be used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements [Special fees collected under Subsection (e) or (d) of this section may not be used to finance a surface water Supply reservoir project].

(i) The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary[, but not to exceed five percent of the money collected under Subsection (d) of this Section,] to finance the activities of the steering committee and any subcommittees appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to \$75,000 annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

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SECTION \_\_. Subsection (a), Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may own, finance, design, construct, [build or] operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, [and] the recharge project does not impair senior water rights or vested riparian rights, and the recharge project is not designed to recirculate water at Comal or San Marcos Springs.

No equivalent provision.

SECTION \_\_. Subsections (b) and (d), Section 1.14, Section 1.21, and Subsections (a), (c), and (d), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

No equivalent provision.

SECTION \_\_. (a) Before January 1, 2012, a suit may not be instituted in a state court contesting:

- (1) the validity or implementation of this Act; or
- (2) the groundwater withdrawal amounts recognized in Section 3 of this Act.

(b) If applicable, a party that files a suit in any court shall be automatically removed from the steering committee established under Section 1.26A, Chapter 626, Acts of

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the 73rd Legislature, Regular Session, 1993, as added by this Act.

(c) A suit against the Edwards Aquifer Authority may not be instituted or maintained by a person who owns, holds, or uses a surface water right and claims injury or potential injury to that right for any reason, including any actions taken by the Edwards Aquifer Authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended. This section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

No equivalent provision.

SECTION \_\_. The change in law made by this Act applies only to a cause of action filed on or after the effective date of this Act. A cause of action that is filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

No equivalent provision.

SECTION \_\_. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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SECTION \_\_. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8269 to read as follows:

CHAPTER 8269. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8269.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the True Ranch Municipal Utility District No. 1.

Sec. 8269.002. NATURE OF DISTRICT. The district is a municipal utility district in Hays County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8269.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8269.023 before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Hays 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 September 1, 2015.

Sec. 8269.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property in

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the district will benefit from the works and projects to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

Sec. 8269.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes;
- (3) the right of the district to issue bonds, notes, or other indebtedness or to pay the principal of and interest on a bond;
- (4) the validity of the district's bonds, notes, or other indebtedness; or
- (5) the legality or operation of the district or the board.

[Sections 8269.006-8269.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8269.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by



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the commission under Subsection (a).

(c) If a temporary director fails to qualify for office or if a vacancy occurs in the office of temporary director, the vacancy shall be filled as provided by Section 49.105, Water Code.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8269.023; or

(2) the date this chapter expires under Section 8269.003.

Sec. 8269.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the directors shall meet at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the meeting shall be at the Hays County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8269.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held under this section.

Sec. 8269.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8269.023 shall draw lots to determine which two serve until the

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first regularly scheduled election of directors under Section 8269.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8269.025. DATE OF FIRST REGULARLY SCHEDULED ELECTION OF DIRECTORS. The board by order may postpone the first election under Section 8269.052 following the confirmation and initial directors' election held under Section 8269.023 if:

(1) the election would otherwise occur not later than the 60th day after the date on which the confirmation election is held; or

(2) the board determines that there is not sufficient time to comply with the requirements of law and to order the election.

Sec. 8269.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2015.

[Sections 8269.027-8269.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8269.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8269.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8269.053-8269.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8269.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

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Sec. 8269.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8269.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate arterials or main feeder roads or improvements in aid of those roads.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

Sec. 8269.104. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all valid and applicable requirements of any ordinance or resolution adopted by a municipality in the corporate limits or extraterritorial jurisdiction of which the district is located, including an ordinance or resolution adopted before September 1, 2007, that consents to the creation of the district or to the inclusion of lands within the district.

[Sections 8269.105-8269.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8269.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section

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8269.201(b), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an operation and maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8269.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8269.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8269.153-8269.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8269.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) The district may not issue bonds to finance projects authorized by Section 8269.103 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

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(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8269.103 may not exceed one-fourth of the assessed value of the real property in the district.

Sec. 8269.202. TAXES FOR BONDS. At the time bonds payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

No equivalent provision.

SECTION \_\_. The True Ranch Municipal Utility District No. 1 includes all the territory contained in the following area:

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 465.71 ACRES, MORE OR LESS, OF LAND AREA IN THE JOHN INGRAIM SURVEY, ABSTRACT NO. 256, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 1279.69 ACRES IN A DEED FROM

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LESLIE TRUE VESPER ET AL TO LESLIE TRUE VESPER DATED AUGUST 10, 1992 AND RECORDED IN VOLUME 948, PAGE 789 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found in the southwest line of R.M. Highway No. 2325 and that tract described as an 80' R.O.W. in a deed from Cecil H. Hale, et al to the State of Texas dated August 29, 1956 and recorded in Volume 169, Page 304 of the Hays County Deed Records for the most northerly northwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract and east corner of that tract described as 592.30 acres in a deed from Leslie True Vesper et al to Ameritrust Texas, N.A., Trustee dated August 10, 1992 and recorded in Volume 949, Page 572 of the Hays County Official Public Records, from which a TXDOT concrete monument found bears N 69°45'42" W 162.75 feet;

THENCE leaving the Ameritrust Texas 592.30 acre tract and the PLACE OF BEGINNING as shown on that plat numbered 24587-06-3-d dated May 30, 2006 prepared for Leslie Vesper by Byrn & Associates, Inc., of San Marcos, Texas with the common northeast line of the Vesper 1279.69 acre tract and southwest line of R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract S 69°48'34" E 599.94 feet to a ½" iron rod set for the northwest corner of that tract described as "Tract 1-1.00 acres" in a deed from Thomas W. Slaughter et ux to

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Randy C. Brown et ux dated February 12, 1996 and recorded in Volume 1206, Page 780 of the Hays County Official Public Records, from which A TXDOT concrete monument found bears S 69°47'57" E 120.11 feet;  
THENCE leaving R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract with the common east line of the Vesper 1279.69 acre tract and west and south lines of the Brown 1.00 acre Tract 1 the following two courses:  
1. S 20°06'33" W 226.56 feet to a 2.5" pipe fence corner post found for corner, and  
S 69°41'58" E 234.42 feet to a 2" pipe fence corner post found in the west line of that tract described as "Tract 2-5.347 acres" in the previously mentioned deed to Randy C. Brown et ux for the southeast corner of the Brown 1.00 acre Tract 1;  
THENCE leaving the Brown 1.00 acre Tract 1 and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Brown 5.347 acre Tract 2, as fenced and used, the following three courses:  
S 00°10'12" E 410.74 feet to a ½" iron rod set at the approximate centerline of an underground pipeline for angle point,  
S 00°04'22" E 196.11 feet to a 2.5" pipe fence post found for angle point, and  
S 00°24'09" E 15.83 feet to an iron rod found with an aluminum cap stamped "Pro-Tech Eng" at fence corner for the southwest corner of the Brown 5.347 acre Tract 2 and northwest corner of the remaining portion of that tract described as 187.78 acres in a deed from Henry Polvado & Lillie Polvado to Wesley Springs dated May

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6, 1983 and recorded in Volume 393, Page 570 of the Hays County Deed Records (the Brown 5.347 acre Tract 2 being a portion of the Springs 187.78 acre tract);  
THENCE leaving the Brown 5.347 acre Tract 2 and continuing with the east line of the Vesper 1279.69 acre tract and west line of the Springs 187.78 acre tract, as fenced and used, the following three courses:  
S 00°00'57" E 1012.24 feet to a 2.5" pipe fence post found for angle point,  
S 00°06'57" W 908.05 feet to a 4" pipe fence corner post found for angle point, and  
S 00°03'12" E 354.80 feet to a 4" pipe fence corner post found for the southwest corner of the springs 187.78 acre tract and northwest corner of that tract described as 126.97 acres in a deed from Stanual W. Farris to the Stanual W. Farris Living Trust dated March 10, 2005 and recorded in Volume 2646, Page 385 of the Hays County Official Public Records;  
THENCE leaving the Springs 187.78 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of Farris Living Trust 126.97 acre tract, as fenced and used, the following three courses:  
S 00°12'25" W 952.36 feet to a 4" pipe fence post found for angle point,  
S 00°09'57"W 1087.12 feet to a 4" cedar post found for angle point, and  
S 00°22'11" W 1072.11 feet to a ½" iron rod found at fence corner for the southwest corner of the Farris Living Trust 126.97 acre tract and northwest corner of that tract



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described as 32.03 acres in a deed from Phil Harris to Shannon Harris dated April 8, 1998 and recorded in Volume 1463, Page 335 of the Hays County Official Public Records;  
THENCE leaving the Farris Living Trust 126.97 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Shannon Harris 32.03 acre tract, as fenced and used, S 00°44'10"W 120.44 feet to a 4" cedar fence corner post found for the southwest corner of the Shannon Harris 32.03 acre tract and northwest corner of that tract described as 28.92 acres in a deed from A.J. Farris et ux to Philip D. Farris dated July 18, 1991 and recorded in Volume 882, page 620 of the Hays County Official Public Records;  
THENCE leaving the Shannon Harris 32.03 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Philip D. Farris 28.92 acre tract, as fenced and used, S 00°24'02" W 279.19 feet to a ½" iron rod found at fence corner for the southeast corner of this description and northeast corner of that tract described as 52.30 acres in a deed from Leslie True Vesper to Paul R. Eastup et ux dated June 5, 1996 and recorded in Volume 1240, Page 309 of the Hays County Official Public Records (the Eastup 52.30 acre tract being a portion of the Vesper 1279.69 acre tract);  
THENCE leaving the Phillip D. Farris 28.92 acre tract and entering the Vesper 1279.69 acre tract with the north line of the Eastup 52.30 acre tract, N 87°10'57" W

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1356.38 feet to a ½" iron rod found in fence for the northwest corner of the Eastup 52.03 acre tract and northeast corner of that tract described as 209.16 acres in a deed from Leslie True Vesper to James Nicholas Edwards and Lynn S. Edwards dated July 6, 2005 and recorded in Volume 2719, Page 740 of the Hays County Official Public Record (the Edwards 209.16 acre tract being a portion of the Vesper 1279.69 acre tract);  
THENCE leaving the Eastup 52.30 acre tract with the north line of the Edwards 209.16 acre tract, as fenced and used, the following five courses:  
N 87°19'31" W 665.61 feet to a 4" pipe fence post found for angle point,  
N 86°58'45" W 535.67 feet to a 3" cedar fence post found for angle point,  
N 87°09'05" W 302.22 feet to a 3" cedar fence post found for angle point,  
N 87°26'23" W 724.92 feet to a 4" cedar fence post found for angle point, and  
N 86°46'01" W 426.90 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" in the east line of that tract described as 504.13 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated February 8, 1999 and recorded in Volume 1500, Page 452 of the Hays County Official Public Records (the Pierce 504.13 acre tract being a portion of the Vesper 1279.69 acre tract);  
THENCE leaving the Edwards 209.16 acre tract with the east line of the Pierce 504.13 acre tract the following two courses:

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N 08°19'22" E 124.79 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for corner, and  
N 87°41'56" W 751.30 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for the southwest corner of this description, an interior corner in the east line of the Pierce 504.13 acre tract, and the south corner of that tract described as 10.59 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated June 15, 2001 and recorded in Volume 1872, Page 802 of the Hays County Official Public Records (the Pierce 10.59 acre tract being a portion of the Vesper 1279.69 acre tract);  
THENCE leaving the Pierce 504.13 acre tract with the east line of Pierce 10.59 acre tract the following two courses:  
N 05°37'42" E (being the bearing basis for description) 734.58 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for angle point, and  
N 16°12'16" E 1026.26 feet to a 16" cedar tree stump found in fence in the east line of the previously mentioned Pierce 504.13 acre tract for the north corner of the Pierce 10.59 acre tract;  
THENCE leaving the Pierce 10.59 acre tract and continuing with the east line of the Pierce 504.13 acre tract, as fenced and used, the following eight courses:  
N 20°34'38" E 42.67 feet to a 16" cedar tree stump found for angle point,  
N 15°43'09" E 241.85 feet to a 12" cedar tree stump found for angle point,  
N 08°41'46" E 86.90 feet to a 14" cedar tree stump found

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for angle point,  
N 07°33'58" E 244.38 feet to a 2.5" pipe fence post  
found for angle point,  
N 24°14'46" E 623.77 feet to a 6" cedar fence post found  
for angle point,  
N 24°15'46" E 420.45 feet to a 2.5" pipe fence post  
found for angle point,  
N 12°52'45" E 194.02 feet to a 2.5" pipe fence post  
found for angle point, and  
N 01°30'08" E 340.55 feet to a 4" pipe fence corner post  
found in the south line of the previously mentioned  
Ameritrust Texas 592.30 acre tract and north line of the  
Vesper 1279.69 acre tract for the northeast corner of the  
Pierce 504.13 acre tract and exterior west corner of this  
description;  
THENCE leaving the Pierce 504.13 acre tract with the  
common north line of the Vesper 1279.69 acre tract, and  
south line of the Ameritrust Texas 592.30 acre tract, as  
fenced and used, the following six courses:  
N 73°32'00" E 130.18 feet to a 4" pipe fence post found  
for angle point,  
S 48°36'36" E 170.02 feet to a ½" iron rod found for  
angle point,  
S 76°17'07" E 88.03 feet to a 4" pipe fence post found  
for angle point,  
S 86°44'44" E 798.24 feet to a 4" pipe fence post found  
for angle point,  
S 86°55'19" E 913.16 feet to a 4" pipe fence post found  
for angle point, and  
S 86°56'50" E 421.51 feet to a ½" iron rod found for the

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southeast corner of the Ameritrust Texas 592.30 acre tract and southwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract; THENCE leaving the fence with the common west line of the panhandle portion of the Vesper 1279.69 acre tract and east line of the Ameritrust Texas 592.30 acre tract the following two courses:  
N 00°00'32" E 1999.62 feet to a ½" iron rod found for angle point, and  
N 32°23'54" E 1152.96 feet to the PLACE OF BEGINNING.  
THERE are contained within these metes and bounds 465.71 acres, more or less, as prepared from public records and surveys made on the ground in 1999, 2001, 2005 and on May 30, 2006 by Byrn & Associates, Inc., of San Marcos, Texas. All ½" iron rods set are capped with a plastic cap stamped "Byrn Survey".

No equivalent provision.

SECTION \_\_. (a) The legal notice of the intention to introduce the provisions of this Act relating to the creation of the True Ranch Municipal Utility District No. 1, setting forth the general substance of those provisions, has been published as provided by law, and the notice and a copy of those provisions have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.  
(b) The governor, one of the required recipients, has submitted the notice and provisions of this Act relating to

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the creation of the True Ranch Municipal Utility District No. 1 to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to the provisions of this Act relating to the creation of the True Ranch Municipal Utility District No. 1 with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

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

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

Same as House version.

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

(a-1) State water that is set aside by the commission to meet the needs for freshwater inflows to affected bays

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and estuaries and instream uses under Section 11.1471(a)(2) may be made available temporarily for other essential beneficial uses if the commission finds that an emergency exists that cannot practically be resolved in another way.

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

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

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

(j) The fee for other uses of water not specifically named in this section is \$1 per acre-foot, except that no political subdivision may be required to pay fees to use water for recharge of underground freshwater-bearing sands and aquifers or for abatement of natural pollution. A fee is not required for a water right that is [~~This fee is waived~~

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~~for applications for instream use water rights]~~ deposited into the Texas Water Trust.

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

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

(16) "Environmental flow regime" means a schedule of flow quantities that reflects seasonal and yearly fluctuations that typically would vary geographically, by specific location in a watershed, and that are shown to be adequate to support a sound ecological environment and to maintain the productivity, extent, and persistence of key aquatic habitats in and along the affected water bodies.

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

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

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

Same as House version.

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

Same as House version.



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

- (1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;
- (2) agricultural uses and industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;
- (3) mining and recovery of minerals;
- (4) hydroelectric power;
- (5) navigation;
- (6) recreation and pleasure;
- (7) public parks; and
- (8) game preserves.

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

(c) The legislature has expressly required the commission while balancing all other public interests to consider and, to the extent practicable, provide for the freshwater inflows and instream flows necessary to maintain the viability of the state's streams, rivers, and bay and estuary systems in the commission's regular

Same as House version.

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granting of permits for the use of state waters. As an essential part of the state's environmental flows policy, all permit conditions relating to freshwater inflows to affected bays and estuaries and instream flow needs must be subject to temporary suspension if necessary for water to be applied to essential beneficial uses during emergencies.

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

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

(d-3) The legislature finds that:

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

(2) in those basins in which the unappropriated water that will be set aside for instream flow and freshwater inflow protection is not sufficient to fully satisfy the environmental flow standards established by the

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commission, a variety of market approaches, both public and private, for filling the gap must be explored and pursued.

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

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

(d-6) The legislature finds that recommendations for state action to protect instream flows and freshwater inflows should be developed through a consensus-based,

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regional approach involving balanced representation of stakeholders and that such a process should be encouraged throughout the state.

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

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

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

Sec. 11.0236. ENVIRONMENTAL FLOWS ADVISORY GROUP. (a) In recognition of the importance that the ecological soundness of our riverine, bay, and estuary systems and riparian lands has on the

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

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economy, health, and well-being of the state there is created the environmental flows advisory group.

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

(1) three members appointed by the governor;

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

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

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

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

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

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

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

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

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

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

(h) The commission shall provide staff support for the

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

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

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

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

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(h) The commission shall provide staff support for the

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advisory group.

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

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

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

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

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advisory group.

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

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

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

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

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

(1) any hearings conducted by the advisory group;

(2) any studies conducted by the advisory group;

(3) any legislation proposed by the advisory group;

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

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

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

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

(b) The advisory group shall appoint to the science advisory committee persons who will provide an objective perspective and diverse technical expertise, including expertise in hydrology, hydraulics, water resources, aquatic and terrestrial biology, geomorphology, geology, water quality, computer modeling, and other technical areas pertinent to the

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

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

(1) any hearings conducted by the advisory group;

(2) any studies conducted by the advisory group;

(3) any legislation proposed by the advisory group;

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

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

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

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(b) The advisory group shall appoint to the science advisory committee persons who will provide an objective perspective and diverse technical expertise, including expertise in hydrology, hydraulics, water resources, aquatic and terrestrial biology, geomorphology, geology, water quality, computer modeling, and other technical areas pertinent to the

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evaluation of environmental flows.

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

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

(e) The science advisory committee shall:

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

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

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

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

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

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

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

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evaluation of environmental flows.

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

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

(e) The science advisory committee shall:

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

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

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

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

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

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

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

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recommendation; and

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

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

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

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

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

(2) the river basin and bay system consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the river basin and bay system consisting of the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays; and

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recommendation; and

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

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

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

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

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

(2) the river basin and bay system consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the river basin and bay system consisting of the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays; and

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

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

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

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

(3) the basin and bay expert science team shall finalize environmental flow regime recommendations and submit them to the basin and bay area stakeholders committee, the advisory group, and the commission not later than March 1, 2009, except that at the request of the basin and bay area stakeholders committee for good cause shown, the advisory group may extend the deadline provided by this subdivision;

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

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

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

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

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

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

(3) the basin and bay expert science team shall finalize environmental flow regime recommendations and submit them to the basin and bay area stakeholders committee, the advisory group, and the commission not later than March 1, 2009, except that at the request of the basin and bay area stakeholders committee for good cause shown, the advisory group may extend the deadline provided by this subdivision;

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

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

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(d) The advisory group shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(2) not later than September 1, 2008, and shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(3) not later than September 1, 2009. The advisory group shall establish a schedule for the performance of the tasks listed in Subsections (c)(2) through (5) with regard to the river basin and bay systems listed in Subsections (b)(2) and (3) that will result in the adoption of environmental flow standards for that river basin and bay system by the commission as soon as is reasonably possible. Each basin and bay area stakeholders committee and basin and bay expert science team for a river basin and bay system listed in Subsection (b)(2) or (3) shall make recommendations to the advisory group with regard to the schedule applicable to that river basin and bay system. The advisory group shall consider the recommendations of the basin and bay area stakeholders committee and basin and bay expert science team as well as coordinate with, and give appropriate consideration to the recommendations of, the commission, the Parks and Wildlife Department, and the board in establishing the schedule.

(e) For a river basin and bay system or a river basin that does not have an associated bay system in this state not listed in Subsection (b), the advisory group shall establish a schedule for the development of environmental flow regime recommendations and the

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(d) The advisory group shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(2) not later than September 1, 2008, and shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(3) not later than September 1, 2009. The advisory group shall establish a schedule for the performance of the tasks listed in Subsections (c)(2) through (5) with regard to the river basin and bay systems listed in Subsections (b)(2) and (3) that will result in the adoption of environmental flow standards for that river basin and bay system by the commission as soon as is reasonably possible. Each basin and bay area stakeholders committee and basin and bay expert science team for a river basin and bay system listed in Subsection (b)(2) or (3) shall make recommendations to the advisory group with regard to the schedule applicable to that river basin and bay system. The advisory group shall consider the recommendations of the basin and bay area stakeholders committee and basin and bay expert science team as well as coordinate with, and give appropriate consideration to the recommendations of, the commission, the Parks and Wildlife Department, and the board in establishing the schedule.

(e) For a river basin and bay system or a river basin that does not have an associated bay system in this state not listed in Subsection (b), the advisory group shall establish a schedule for the development of environmental flow regime recommendations and the

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adoption of environmental flow standards. The advisory group shall develop the schedule in consultation with the commission, the Parks and Wildlife Department, the board, and the pertinent basin and bay area stakeholders committee and basin and bay expert science team. The advisory group may, on its own initiative or on request, modify a schedule established under this subsection to be more responsive to particular circumstances, local desires, changing conditions, or time-sensitive conflicts. This subsection does not prohibit, in a river basin and bay system for which the advisory group has not yet established a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards, an effort to develop information on environmental flow needs and ways in which those needs can be met by a voluntary consensus-building process.

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

(1) reflect a fair and equitable balance of interest groups concerned with the particular river basin and bay system

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adoption of environmental flow standards. The advisory group shall develop the schedule in consultation with the commission, the Parks and Wildlife Department, the board, and the pertinent basin and bay area stakeholders committee and basin and bay expert science team. The advisory group may, on its own initiative or on request, modify a schedule established under this subsection to be more responsive to particular circumstances, local desires, changing conditions, or time-sensitive conflicts. This subsection does not prohibit, in a river basin and bay system for which the advisory group has not yet established a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards, an effort to develop information on environmental flow needs and ways in which those needs can be met by a voluntary consensus-building process.

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

(1) reflect a fair and equitable balance of interest groups concerned with the particular river basin and bay system

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for which the committee is established; and  
(2) be representative of appropriate stakeholders, including the following if they have a presence in the particular river basin and bay system for which the committee is established:  
(A) agricultural water users;

(B) recreational water users, including coastal recreational anglers and businesses supporting water recreation;  
(C) municipalities;  
(D) soil and water conservation districts;  
(E) industrial water users, including representatives of each of the following sectors:  
(i) refining;  
(ii) chemical manufacturing;  
(iii) electricity generation; and  
(iv) production of paper products or timber;  
(F) commercial fishermen;  
(G) public interest groups;  
(H) regional water planning groups;  
(I) groundwater conservation districts;  
(J) river authorities and other conservation and reclamation districts with jurisdiction over surface water;  
and  
(K) environmental interests.  
(g) Members of a basin and bay area stakeholders

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for which the committee is established; and  
(2) be representative of appropriate stakeholders, including the following if they have a presence in the particular river basin and bay system for which the committee is established:  
(A) agricultural water users, including representatives of each of the following sectors:  
(i) agricultural irrigation;  
(ii) free-range livestock; and  
(iii) concentrated animal feeding operation;  
(B) recreational water users, including coastal recreational anglers and businesses supporting water recreation;  
(C) municipalities;  
(D) soil and water conservation districts;  
(E) industrial water users, including representatives of each of the following sectors:  
(i) refining;  
(ii) chemical manufacturing;  
(iii) electricity generation; and  
(iv) production of paper products or timber;  
(F) commercial fishermen;  
(G) public interest groups;  
(H) regional water planning groups;  
(I) groundwater conservation districts;  
(J) river authorities and other conservation and reclamation districts with jurisdiction over surface water;  
and  
(K) environmental interests.  
(g) Members of a basin and bay area stakeholders

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committee serve five-year terms expiring March 1. If a vacancy occurs on a committee, the remaining members of the committee by majority vote shall appoint a member to serve the remainder of the unexpired term.

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

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

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

(k) The science advisory committee shall appoint one of its members to serve as a liaison to each basin and bay expert science team to facilitate coordination and consistency in environmental flow activities throughout

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committee serve five-year terms expiring March 1. If a vacancy occurs on a committee, the remaining members of the committee by majority vote shall appoint a member to serve the remainder of the unexpired term.

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

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

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

(k) The science advisory committee shall appoint one of its members to serve as a liaison to each basin and bay expert science team to facilitate coordination and consistency in environmental flow activities throughout

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the state. The commission, the Parks and Wildlife Department, and the board shall provide technical assistance to each basin and bay expert science team, including information about the studies conducted under Sections 16.058 and 16.059, and may serve as nonvoting members of the basin and bay expert science team to facilitate the development of environmental flow regime recommendations.

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

(m) Each basin and bay expert science team shall develop environmental flow analyses and a recommended environmental flow regime for the river basin and bay system for which the team is established through a collaborative process designed to achieve a consensus. In developing the analyses and recommendations, the science team must consider all reasonably available science, without regard to the need for the water for other uses, and the science team's recommendations must be based solely on the best science available. For the Rio Grande below Fort Quitman, any uses attributable to Mexican water flows must be excluded from environmental flow regime recommendations.

(n) Each basin and bay expert science team shall submit its environmental flow analyses and environmental flow regime recommendations to the pertinent basin and bay area stakeholders committee, the advisory group, and the commission in accordance with the applicable schedule specified by or established under Subsection (c), (d), or

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the state. The commission, the Parks and Wildlife Department, and the board shall provide technical assistance to each basin and bay expert science team, including information about the studies conducted under Sections 16.058 and 16.059, and may serve as nonvoting members of the basin and bay expert science team to facilitate the development of environmental flow regime recommendations.

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

(m) Each basin and bay expert science team shall develop environmental flow analyses and a recommended environmental flow regime for the river basin and bay system for which the team is established through a collaborative process designed to achieve a consensus. In developing the analyses and recommendations, the science team must consider all reasonably available science, without regard to the need for the water for other uses, and the science team's recommendations must be based solely on the best science available. For the Rio Grande below Fort Quitman, any uses attributable to Mexican water flows must be excluded from environmental flow regime recommendations.

(n) Each basin and bay expert science team shall submit its environmental flow analyses and environmental flow regime recommendations to the pertinent basin and bay area stakeholders committee, the advisory group, and the commission in accordance with the applicable schedule specified by or established under Subsection (c), (d), or

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(e). The basin and bay area stakeholders committee and the advisory group may not change the environmental flow analyses or environmental flow regime recommendations of the basin and bay expert science team.

(o) Each basin and bay area stakeholders committee shall review the environmental flow analyses and environmental flow regime recommendations submitted by the committee's basin and bay expert science team and shall consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the pertinent river basin and bay system. For the Rio Grande, the basin and bay area stakeholders committee shall also consider the water accounting requirements for any international water sharing treaty, minutes, and agreement applicable to the Rio Grande and the effects on allocation of water by the Rio Grande watermaster in the middle and lower Rio Grande. The Rio Grande basin and bay expert science team may not recommend any environmental flow regime that would result in a violation of a treaty or court decision. The basin and bay area stakeholders committee shall develop recommendations regarding environmental flow standards and strategies to meet the environmental flow standards and submit those recommendations to the commission and to the advisory group in accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e). In developing its recommendations, the basin and bay area stakeholders

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(e). The basin and bay area stakeholders committee and the advisory group may not change the environmental flow analyses or environmental flow regime recommendations of the basin and bay expert science team.

(o) Each basin and bay area stakeholders committee shall review the environmental flow analyses and environmental flow regime recommendations submitted by the committee's basin and bay expert science team and shall consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the pertinent river basin and bay system. For the Rio Grande, the basin and bay area stakeholders committee shall also consider the water accounting requirements for any international water sharing treaty, minutes, and agreement applicable to the Rio Grande and the effects on allocation of water by the Rio Grande watermaster in the middle and lower Rio Grande. The Rio Grande basin and bay expert science team may not recommend any environmental flow regime that would result in a violation of a treaty or court decision. The basin and bay area stakeholders committee shall develop recommendations regarding environmental flow standards and strategies to meet the environmental flow standards and submit those recommendations to the commission and to the advisory group in accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e). In developing its recommendations, the basin and bay area stakeholders

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committee shall operate on a consensus basis to the maximum extent possible.

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

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

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

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

(q) In accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e), the advisory group, with input from the science advisory committee, shall review the environmental flow analyses and environmental flow regime recommendations submitted by each basin and bay expert science team. If appropriate, the advisory group shall submit comments

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committee shall operate on a consensus basis to the maximum extent possible.

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

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

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

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

(q) In accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e), the advisory group, with input from the science advisory committee, shall review the environmental flow analyses and environmental flow regime recommendations submitted by each basin and bay expert science team. If appropriate, the advisory group shall submit comments

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on the analyses and recommendations to the commission for use by the commission in adopting rules under Section 11.1471. Comments must be submitted not later than six months after the date of receipt of the analyses and recommendations.

(r) Notwithstanding the other provisions of this section, in the event the commission, by permit or order, has established an estuary advisory council with specific duties related to implementation of permit conditions for environmental flows, that council may continue in full force and effect and shall act as and perform the duties of the basin and bay area stakeholders committee under this section. The estuary advisory council shall add members from stakeholder groups and from appropriate science and technical groups, if necessary, to fully meet the criteria for membership established in Subsection (f) and shall operate under the provisions of this section.

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

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

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on the analyses and recommendations to the commission for use by the commission in adopting rules under Section 11.1471. Comments must be submitted not later than six months after the date of receipt of the analyses and recommendations.

(r) Notwithstanding the other provisions of this section, in the event the commission, by permit or order, has established an estuary advisory council with specific duties related to implementation of permit conditions for environmental flows, that council may continue in full force and effect and shall act as and perform the duties of the basin and bay area stakeholders committee under this section. The estuary advisory council shall add members from stakeholder groups and from appropriate science and technical groups, if necessary, to fully meet the criteria for membership established in Subsection (f) and shall operate under the provisions of this section.

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

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

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and estuary inflows.

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

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

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

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

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

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

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

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and estuary inflows.

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

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freshwater inflow needs; and

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

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

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

Same as House version.

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

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

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violator the option of either:

- (1) without admitting to or denying the alleged violation, paying an administrative penalty in accordance with the predetermined penalty amount established under Subsection (b) [~~of this section~~] and taking remedial action as provided in the citation; or
- (2) requesting a hearing on the alleged violation in accordance with Section 11.0842 [~~of this code~~].

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

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

- (1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;
- (2) unappropriated water is available in the source of supply;
- (3) the proposed appropriation:
  - (A) is intended for a beneficial use;
  - (B) does not impair existing water rights or vested riparian rights;
  - (C) is not detrimental to the public welfare;
  - (D) considers any applicable environmental flow standards established under Section 11.1471 and, if applicable, the assessments performed under Sections 11.147(d) and (e) and Sections 11.150, 11.151, and 11.152; and
  - (E) addresses a water supply need in a manner that is consistent with the state water plan and the relevant

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approved regional water plan for any area in which the proposed appropriation is located, unless the commission determines that conditions warrant waiver of this requirement; and

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

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

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

(d) In its consideration of an application to store, take, or divert water, the commission shall include in the permit, to the extent practicable when considering all public

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interests, those conditions considered by the commission necessary to maintain existing instream uses and water quality of the stream or river to which the application applies. In determining what conditions to include in the permit under this subsection, the commission shall consider among other factors:

(1) the studies mandated by Section 16.059; and

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

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

(e-1) Any permit for a new appropriation of water or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted must include a provision allowing the commission to adjust the conditions included in the permit or amended water right to provide for protection of instream flows or freshwater inflows. With respect to an amended water right, the provision may not allow the commission to adjust a condition of the amendment other than a condition that applies only to the increase in the amount of water to be stored, taken, or diverted authorized by the amendment. This subsection does not affect an appropriation of or an authorization to store, take, or divert water under a permit or amendment to a

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water right issued before September 1, 2007. The commission shall adjust the conditions if the commission determines, through an expedited public comment process, that such an adjustment is appropriate to achieve compliance with applicable environmental flow standards adopted under Section 11.1471. The adjustment:

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

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

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

(e-2) Any water right holder who makes a contribution or



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amends a water right as described by Subsection (e-1)(3) is entitled to appropriate credit for the benefits of the contribution or amendment against the adjustment of the holder's water right under Subsection (e-1).

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

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

Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES. (a) The commission by rule shall:

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

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

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considering human water needs; and

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

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

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

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

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

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

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

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

(7) economic factors;

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

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

(10) any other appropriate information.

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

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

(e) An environmental flow set-aside established under Subsection (a)(2) for a river basin and bay system other than the middle and lower Rio Grande must be assigned a priority date corresponding to the date the commission receives environmental flow regime recommendations from the applicable basin and bay expert science team

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and be included in the appropriate water availability models in connection with an application for a permit for a new appropriation or for an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted.

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

SECTION 15. The heading to Section 11.148, Water Code, is amended to read as follows:  
Sec. 11.148. EMERGENCY SUSPENSION OF

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PERMIT CONDITIONS AND EMERGENCY  
AUTHORITY TO MAKE AVAILABLE WATER SET  
ASIDE FOR ENVIRONMENTAL FLOWS.

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

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

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

(c) The commission may suspend the permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) without notice to any other interested party other than the Parks and Wildlife

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Department as provided by Subsection (b) [~~of this section~~]. However, all affected persons shall be notified immediately by publication, and a hearing to determine whether the suspension should be continued shall be held within 15 days of the date on which the order to suspend is issued.

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

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

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

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

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

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

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

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or

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

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

Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For each river basin or segment of a river basin for which the executive director appoints a watermaster under this subchapter, the executive director shall appoint a watermaster advisory committee consisting of at least nine but not more than 15 members.

A member of the advisory committee must be a holder of a water right or a representative of a holder of a water right in the river basin or segment of the river basin for which the watermaster is appointed. In appointing members to the advisory committee, the executive director shall consider:

(1) geographic representation;

(2) amount of water rights held;

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

(4) experience and knowledge of water management practices.

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

(c) An advisory committee member serves a two-year term expiring August 31 of each odd-numbered year and

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holds office until a successor is appointed.

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

(e) The advisory committee shall:

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

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

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

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

Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER. Section 11.327 applies to the duties and authority of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as that section applies to the duties and authority of a watermaster appointed for a water division under Subchapter G ~~[A watermaster as the agent of the~~

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~~commission and under the executive director's supervision shall:~~

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

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

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

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

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

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

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

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

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

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

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

(3) to compensate the members of the basin and bay expert science teams established under Section 11.02362 for attendance and participation at meetings of the basin and bay expert science teams and for transportation, meals, lodging, or other travel expenses associated with

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attendance at those meetings as provided by the General Appropriations Act; and  
(4) for contracts with political subdivisions designated as representatives of basin and bay area stakeholders committees established under Section 11.02362 to fund all or part of the administrative expenses incurred in conducting meetings of the basin and bay area stakeholders committees or the pertinent basin and bay expert science teams.

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

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

Same as House version.

No equivalent provision.

SECTION \_\_. Sections 16.315 and 16.319, Water Code, are amended to read as follows:  
Sec. 16.315. **POLITICAL SUBDIVISIONS; COMPLIANCE WITH FEDERAL REQUIREMENTS.**  
All political subdivisions are hereby authorized to take

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all necessary and reasonable actions that are not less stringent than ~~[to comply with]~~ the requirements and criteria of the National Flood Insurance Program, including but not limited to:

- (1) making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;
- (2) guiding the development of proposed future construction, where practicable, away from a location which is threatened by flood hazards;
- (3) assisting in minimizing damage caused by floods;
- (4) authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;
- (5) engaging in floodplain management, ~~and~~ adopting and enforcing permanent land use and control measures that are not less stringent than those ~~[consistent with the criteria]~~ established under the National Flood Insurance Act, and providing for the imposition of penalties on landowners who violate this subchapter or rules adopted or orders issued under this subchapter;
- (6) declaring property, when such is the case, to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and notifying the director, or whomever the director designates, of such property;
- (7) consulting with, giving information to, and entering into agreements with the Federal Emergency

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Management Agency for the purpose of:

- (A) identifying and publishing information with respect to all flood areas, including coastal areas; and
- (B) establishing flood-risk zones in all such areas and making estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;
- (8) cooperating with the director's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;
- (9) taking steps, using regional, watershed, and multi-objective approaches, to improve the long-range management and use of flood-prone areas;
- (10) purchasing, leasing, and receiving property from the director when such property is owned by the federal government and lies within the boundaries of the political subdivision pursuant to agreements with the Federal Emergency Management Agency or other appropriate legal representative of the United States Government;
- (11) requesting aid pursuant to the entire authorization from the commission;
- (12) satisfying criteria adopted and promulgated by the commission pursuant to the National Flood Insurance Program;
- (13) adopting permanent land use and control measures with enforcement provisions that are not less stringent than ~~[which are consistent with]~~ the criteria for land

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management and use adopted by the director;

(14) adopting more comprehensive floodplain management rules that the political subdivision determines are necessary for planning and appropriate to protect public health and safety;

(15) participating in floodplain management and mitigation initiatives such as the National Flood Insurance Program's Community Rating System, Project Impact, or other initiatives developed by federal, state, or local government; and

(16) collecting reasonable fees to cover the cost of administering a local floodplain management program.

Sec. 16.319. QUALIFICATION. Political subdivisions wishing to qualify under the National Flood Insurance Program shall have the authority to do so by complying with the directions of the Federal Emergency Management Agency and by:

(1) evidencing to the director a positive interest in securing flood insurance coverage under the National Flood Insurance Program; and

(2) giving to the director satisfactory assurance that measures will have been adopted for the political subdivision that [~~which measures~~] will be not less stringent than [~~consistent with~~] the comprehensive criteria for land management and use developed by the Federal Emergency Management Agency.

SECTION 24. Section 26.0135(h), Water Code, as amended by Chapters 234 and 965, Acts of the 77th

Same as House version.

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Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(h) The commission shall apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section from users of water and wastewater permit holders in the watershed according to the records of the commission generally in proportion to their right, through permit or contract, to use water from and discharge wastewater in the watershed. Irrigation water rights, ~~and~~ non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to this assessment. The cost to river authorities and others to conduct water quality monitoring and assessment shall be subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall adopt rules to supervise and implement the water quality monitoring, assessment, and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, that program funds are equitably apportioned among basins, that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities described in Section 26.177 ~~[of this chapter]~~. The rules concerning



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the apportionment and assessment of reasonable costs shall provide for a recovery of not more than \$5,000,000 annually. Costs recovered by the commission are to be deposited to the credit of the water resource management account and may be used only to accomplish the purposes of this section. The commission may apply not more than 10 percent of the costs recovered annually toward the commission's overhead costs for the administration of this section and the implementation of regional water quality assessments. The commission, with the assistance and input of each river authority, shall file a written report accounting for the costs recovered under this section with the governor, the lieutenant governor, and the speaker of the house of representatives on or before December 1 of each even-numbered year.

No equivalent provision.

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SECTION \_\_\_. Chapter 26, Water Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. SAN JACINTO RIVER WATER QUALITY PROTECTION AREA

Sec. 26.601. DEFINITIONS. In this subchapter:

- (1) "Operator" means any person engaged in or responsible for the physical operation and control of a quarry.
- (2) "Owner" means any person holding title, wholly or partly, to the land on which a quarry exists or has existed.
- (3) "Pit" means an open excavation from which sand or

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gravel has been or is being extracted from a depth of five feet or more below the adjacent and natural ground level.

(4) "Quarry" means the site from which sand or gravel for commercial sale or use is being or has been removed or extracted from the earth to form a pit, including the entire excavation, stripped areas, haulage ramps, and the immediately adjacent land on which a plant processing the sand or gravel is located.

(5) "Responsible party" means the owner, operator, lessor, or lessee who is responsible for the overall function and operation of a quarry.

(6) "San Jacinto water quality protection area" means territory located one-half mile or less from:

(A) that portion of the East Fork of the San Jacinto River from State Highway 105 downstream to Lake Houston;

(B) that portion of the West Fork of the San Jacinto River from Interstate Highway 45 downstream to Lake Houston; and

(C) Spring Creek from its most easterly intersection with Farm-to-Market Road 1736 downstream to its confluence with the West Fork of the San Jacinto River.

(7) "Water quality protection area" means territory located one-half mile or less from a river the water quality of which is threatened by activities at a quarry.

Sec. 26.602. APPLICABILITY; PILOT PROGRAM.

(a) This subchapter applies only to sand and gravel quarries located in a water quality protection area designated by commission rule.

(b) This subchapter does not apply to:

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(1) permitting, construction, or operation of a municipal solid waste landfill or other solid waste facility regardless of whether the facility includes an excavation that is associated with past quarrying activities; or  
(2) an excavation, pit, or quarry associated with or related to the operations of a municipal solid waste landfill or other solid waste facility, regardless of the material extracted from or the depth of the excavation, pit, or quarry.  
(c) This subchapter does not apply to an activity, facility, or operation regulated under Chapter 134, Natural Resources Code.  
(d) For the period of September 1, 2007, to September 1, 2027, the commission shall apply this subchapter only as a pilot program in the San Jacinto water quality protection area.  
Sec. 26.603. REGULATION OF QUARRIES WITHIN WATER QUALITY PROTECTION AREA. (a) The commission by rule shall require a responsible party to obtain an authorization to use a general permit under Section 26.040 for any discharges from a quarry any part of which is located in a water quality protection area designated under this subchapter.  
(b) Except as provided by Subsection (c), the commission by rule shall prohibit the construction or operation of a new quarry and the expansion of an existing quarry if the new or existing quarry is to be or is located 100 feet or less from a stream that is in a water quality protection area designated under this subchapter.  
(c) A quarry that is covered by a permit issued by the

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United States Army Corps of Engineers under Section 404 of the federal Clean Water Act (33 U.S.C. Section 1344) may operate within 100 feet of a stream if that permit authorizes the operation, regardless of whether the quarry is located in a water quality protection area designated under this subchapter.

(d) The commission by rule shall establish performance criteria and requirements for the general permit required under Subsection (a) to address:

(1) slope gradients that minimize the potential for erosion of quarry walls and banks into the surface waters and related water quality considerations;

(2) potential effects on areas subject to frequent flooding and related risks to public safety and property;

(3) the control of surface water drainage and water accumulation to prevent:

(A) erosion, siltation, or runoff; and

(B) damage to public or private property; and

(4) closure of a quarry, after quarry activities have ended, consistent with best management standards and practices adopted by the commission for quarry stabilization and reuse, which may include soil stabilization and compacting, grading, erosion control measures, removal of waste, debris, and structures, and revegetation.

(e) The commission by rule shall establish requirements for financial responsibility that are adequate to protect the water resources in the water quality protection area and include those requirements in the general permit required under Subsection (a).

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(f) In addition to any other requirements established by commission rule under Subsections (d) and (e), the responsible party for a quarry located in a water quality protection area who is required to obtain an authorization to use a general permit shall include with an application filed with the commission for the authorization:

(1) a proposed plan of action for how the responsible party will restore a receiving water body to background conditions in the event of an unauthorized discharge that affects the water body; and

(2) a proposed plan of action for how the responsible party will close the quarry, consistent with commission standards, that includes:

(A) a description of the natural state of the land surrounding the quarry to which state the quarry will be restored, or the specific land use proposed for the quarry site; and

(B) a schedule within which the effort to close the quarry may reasonably be required to be completed after quarry activities have ended.

Sec. 26.604. FINANCIAL RESPONSIBILITY; VIOLATION. (a) The commission by rule shall adopt requirements for maintaining acceptable evidence of financial responsibility for:

(1) restoration of a water body affected by an unauthorized discharge from a permitted quarry;

(2) taking corrective action for and compensating for water quality effects caused by an unauthorized discharge resulting from quarrying; and

(3) implementing an approved quarry closure and reuse

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plan if the responsible party is unwilling or unable to meet the requirements of the plan.

(b) A responsible party may not operate a permitted quarry knowing that acceptable evidence of financial responsibility has not been maintained.

Sec. 26.605. INSPECTIONS OF AND SAMPLING OF WATER IN PILOT AREA. (a) To detect potential violations of this subchapter in the San Jacinto water quality protection area, the commission, the San Jacinto River Authority, and the Parks and Wildlife Department shall coordinate efforts to conduct:

(1) visual inspections of the water quality protection area; and

(2) analyses of surface water samples from the San Jacinto River and its tributaries subject to this subchapter.

(b) The visual inspections and analyses of water samples must be conducted at least twice annually. At least once each year, an inspection of the San Jacinto water quality protection area must be conducted from an aircraft flying over the area.

Sec. 26.606. UNAUTHORIZED DISCHARGES OF CERTAIN WASTES WITHIN WATER QUALITY PROTECTION AREA; ENFORCEMENT. (a) The commission shall enforce this subchapter and impose administrative and civil penalties as authorized by this code for discharges from a quarry in violation of this subchapter or of any commission rule.

(b) In addition to the administrative penalties and other available remedies or causes of action, the commission

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may seek injunctive relief in the district courts of Travis County to require:

(1) the temporary or permanent closure of a quarry operated without authorization required under this subchapter;

(2) the temporary or permanent closure of a permitted quarry under this subchapter for which acceptable evidence of financial responsibility is not maintained;

(3) the temporary or permanent closure of any quarry responsible for an unauthorized discharge; or

(4) corrective action by the responsible party for a quarry that is responsible for an unauthorized discharge.

Sec. 26.607. EMERGENCY ORDERS. The commission may issue a temporary or emergency order under Section 5.509 relating to a discharge of waste or pollutants from a quarry into or adjacent to water in a water quality protection area designated under this subchapter.

Sec. 26.608. RECOVERY OF COSTS FOR UNAUTHORIZED DISCHARGES WITHIN WATER QUALITY PROTECTION AREA. If the commission has incurred any costs in undertaking a corrective or enforcement action with respect to an unauthorized discharge from a quarry under this subchapter, including a reclamation or restoration action, the responsible party is liable to this state for all reasonable costs of the corrective or enforcement action, including court costs and reasonable attorney's fees, and for any punitive damages that may be assessed by the court.

Sec. 26.609. COOPERATION WITH OTHER STATE

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AGENCIES. (a) The commission is the principal authority in this state on matters relating to the implementation of this subchapter. All other state agencies engaged in water quality or water pollution control activities in a water quality protection area designated under this subchapter shall coordinate those activities with the commission.

(b) The executive director, with the consent of the commission, may enter into contracts, memoranda of understanding, or other agreements with other state agencies for purposes of developing requirements, including requirements for financial responsibility, for inclusion in any general permit required by this subchapter that are adequate to protect the water resources in the water quality protection area.

Sec. 26.610. WATER QUALITY PROTECTION AREA REPORTS. (a) On or before December 1, 2008, the commission shall prepare a report describing its implementation of this subchapter and provide copies of the report to the governor, lieutenant governor, and speaker of the house of representatives.

(b) Beginning December 1, 2010, and on December 1 of each succeeding even-numbered year, the commission shall deliver a report to the governor, lieutenant governor, and speaker of the house of representatives evaluating the implementation and operation of the water quality protection permitting and enforcement programs developed under this subchapter.

(c) At the discretion of the commission, the report under Subsection (b) may be consolidated with any other



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appropriate agency biennial report, including the report required under Subchapter M, except that information specific to any water quality protection area designated under this subchapter must be clearly identified.

Sec. 26.611. EXPIRATION. This subchapter expires September 1, 2027.

No equivalent provision.

SECTION \_\_. (a) The Texas Commission on Environmental Quality shall adopt rules to implement Subchapter N, Chapter 26, Water Code, as added by this Act, as soon as practicable.

(b) A responsible party required to obtain an authorization to use a general permit described by Subchapter N, Chapter 26, Water Code, as added by this Act, shall submit an application for the authorization on or before the 180th day after the date rules of the Texas Commission on Environmental Quality adopted under that subchapter take effect.

No equivalent provision.

SECTION \_\_. Chapter 49, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. EFFECT OF SUBDIVISION OF NONAGRICULTURAL LAND ON WATER RIGHTS

Sec. 49.501. DEFINITION. In this subchapter, "municipal water supplier" means a municipality or a water supply corporation.

Sec. 49.502. APPLICABILITY. This subchapter applies only to a district, other than a drainage district,

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located wholly or partly in a county:

(1) that borders the Gulf of Mexico and the United Mexican States; or

(2) that is adjacent to a county described by Subdivision (1).

Sec. 49.503. PETITION BY MUNICIPAL WATER SUPPLIER TO CONVERT WATER USE AFTER SUBDIVISION. (a) This section applies only to land:

(1) that is:

(A) subdivided into town lots or blocks or small parcels of the same general nature as town lots or blocks;

(B) designed, intended, or suitable for residential or other nonagricultural purposes, including streets, alleys, parkways, parks, detention or retention ponds, and railroad property and rights-of-way; or

(C) in a subdivision created to meet the requirements of a governmental entity authorized to require a recorded plat of subdivided lands;

(2) that is in a subdivision for which a plat or map has been filed and recorded in the office of the county clerk of each county in which the subdivision is wholly or partly located; and

(3) that is or was assessed as flat rate irrigable property in the municipal water supplier's certificated service area or its corporate area.

(b) A municipal water supplier that serves land described by Subsection (a) may petition the district in accordance with this section to convert the proportionate irrigation water right to the Rio Grande from irrigation use to municipal use with municipal priority of allocation

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under commission rules, for the use and benefit of the municipal supplier.

(c) The municipal water supplier must file the petition with the district not later than January 1 after the expiration of two years after the date the plat or map was recorded under Subsection (a). The district shall consider the petition not later than January 31 of the year following the year in which the petition was filed.

(d) The petition must identify by subdivision name or other sufficient description the land that the municipal water supplier supplies or has the right to supply potable water.

(e) This section applies only to one subdivision of the land recorded under Subsection (a). This section does not apply to any further subdivision of the same property.

Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE TO FILE A PETITION. (a) If a municipal water supplier does not file a petition under Section 49.503, the district may retain the water rights for use by the district or may declare the water as excess and contract for the sale or use of the water as determined by the district.

(b) Before a district may contract for the sale or use of water for more than one year with a purchaser located outside of a county described by Section 49.502, the district must, for 90 days:

- (1) make the water available under the same terms to all municipal water suppliers located in those counties; and
- (2) advertise the offer to sell or contract for the use of

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the water by posting notice on:

(A) any website of the Rio Grande Watermaster's Office;

(B) any website of the Rio Grande Regional Water Authority; and

(C) the official posting place for the district's board meetings at the district's office.

(c) If, after the 90th day after the last date on which the district posted notice, a municipal water supplier in a county described by Section 49.502 has not contracted with the district for the sale or use of the water, the district may contract with any other person for the sale or use of the water under the terms of the offer advertised under Subsection (b).

Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A district that receives a petition under Section 49.503 shall compute the proportionate amount of water rights to the Rio Grande. The proportionate amount of water rights is equal to the amount of irrigable acres of land in the subdivision multiplied by the lesser of:

(1) 1.25 acre-feet per irrigable acre; or

(2) the sum of all irrigation water rights owned by the district on September 1, 2007, as if the water rights had been converted to municipal use under applicable commission rules, divided by the total amount of irrigable acres of land in the district on September 1, 2007.

Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE WATER RIGHTS BY DISTRICT.

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(a) Not later than the second anniversary of the date the municipal water supplier files a petition under Section 49.503:

(1) a district shall provide the municipal water supplier with the proportionate water rights described by Section 49.505 from the district's existing water rights; or

(2) a district shall, if the district does not have sufficient existing water rights:

(A) apply for appropriate amendments to the district's water rights under commission rules to convert the proportionate water rights from irrigation use to municipal use with municipal priority of allocation; and

(B) provide to the municipal water supplier the converted rights described by Section 49.505.

(b) The district may continue to use the irrigation use water for district purposes until:

(1) the commission approves the amendment to the district's water rights; or

(2) the water is otherwise provided to the municipal water supplier.

(c) A district that applies for appropriate amendments under Subsection (a)(2) shall provide the municipal water supplier with an estimate of the district's reasonable costs for the administrative proceedings. The district is not required to begin the proceedings until the municipal water supplier deposits the amount of the estimate with the district. The municipal water supplier shall pay the district any reasonable costs that exceed the estimate. The district shall refund the balance of the deposit if the actual cost is less than the estimate.

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Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER RIGHTS; WATER RIGHTS SALE CONTRACT. (a) A municipal water supplier may contract to purchase the proportionate water rights described by Section 49.505.

(b) The purchase price may not exceed 68 percent of the current market value, as determined under Section 49.509, for the year that the municipal water supplier petitions the district.

(c) The contract must be in writing in a document entitled "Water Rights Sales Contract."

(d) The contract must include the purchase price for the water rights or, if the consideration for the sale is not monetary, the terms of the sale.

(e) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

(f) The municipal water supplier shall pay the purchase price when the proportionate amount of water rights is made available to the municipal water supplier.

Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS; WATER SUPPLY CONTRACT. (a) A municipal water supplier may contract to use water associated with the proportionate water rights described by Section 49.505.

(b) The contract must be for at least 40 years.

(c) The price for the contractual right to use the municipal use water is based on an amount for one acre-foot of municipal use water with a municipal use priority of allocation and may not exceed the sum of:

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- (1) an amount equal to the district's annual flat rate charge per assessed acre; and
  - (2) the equivalent of the charge for four irrigations per flat rate acre of irrigable property in the district.
  - (d) The parties to the contract shall agree on the terms of payment of the contract price.
  - (e) The board periodically shall determine the flat rate charge and irrigation per acre charge described by Subsection (c).
  - (f) The contract must be in writing in a document entitled "Water Supply Contract." The contract may contain any terms to which the parties agree.
  - (g) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.
- Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY TO CALCULATE CURRENT MARKET VALUE. (a) The Rio Grand Regional Water Authority annually at its January meeting shall calculate the current market value by using the average price per acre-foot of municipal use water after conversion from irrigation use water to municipal use water with a municipal priority of allocation under commission rules of the last three purchases involving:
- (1) a municipal water supplier;
  - (2) a party other than a municipal water supplier; and
  - (3) at least 100 acre-feet of municipal use water, with municipal priority of allocation.
- (b) The Rio Grande Regional Water Authority shall use information from the water rights sales contracts reported

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to the Rio Grande Watermaster's Office to calculate the current market value.

(c) The Rio Grande Regional Water Authority shall make the calculation:

(1) without charging any of the parties involved; and

(2) using 100 percent of the value of monetary exchanges, not in-kind exchanges.

Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. A district shall maintain an accounting of money received from the sale of water rights under this subchapter.

Sec. 49.511. CAPITAL IMPROVEMENTS. A district shall designate at least 75 percent of the proceeds from the sale of water rights for capital improvements in the district.

Sec. 49.512. MAP OF SERVICE AREA. (a) In this section, "outer boundaries of a district" means district boundaries without considering any exclusion of land from inside the district.

(b) Each municipal water supplier that has a certificate of convenience and necessity service area in the outer boundaries of a district shall file a map of the service area with the district.

(c) The municipal water supplier shall update the map and forward the map to the district when changes are made.

(d) A district periodically shall provide to a municipal water supplier that serves territory in the district a copy of the district's map showing the outer boundaries of the district.



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(e) A district may request from a municipal water supplier a map of the municipal suppliers's service area, and a municipal water supplier may request from the district a map of the district's outer boundaries. On request, the district and a municipal water supplier shall provide the map free of charge to each other at least one time each year. If the district or municipal water supplier receives more than one request a year for a map, the district or municipal water supplier may charge a reasonable fee for the map.

No equivalent provision.

SECTION \_\_. Subchapter O, Chapter 49, Water Code, as added by this Act, applies only to a subdivision for which a plat or map has been recorded in the office of the county clerk of a county on or after the effective date of this Act. A subdivision for which a plat or map was recorded before the effective date of this Act is covered by the law in effect on the date the plat or map was recorded, and the former law is continued in effect for that purpose.

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

Same as House version.

No equivalent provision.

SECTION \_\_. (a) In this section, "board" means the Texas Water Development Board.  
(b) The board, in coordination with the Far West Texas

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Regional Water Planning Group established pursuant to Section 16.053, Water Code, shall conduct a study regarding the possible impact of climate change on surface water supplies from the Rio Grande.

(c) In conducting the study, the board shall convene a conference within the Far West Texas regional water planning area designated pursuant to Section 16.053, Water Code, to review:

(1) any analysis conducted by a state located to the west of this state regarding the impact of climate change on surface water supplies in that state;

(2) any other current analysis of potential impacts of climate change on surface water resources; and

(3) recommendations for incorporation of potential impacts of climate change into the Far West Texas Regional Water Plan, including potential impacts to the Rio Grande in Texas subject to the Rio Grande Compact and identification of feasible water management strategies to offset any potential impacts.

(d) The conference should include, but not be limited to, the participation of representatives of:

(1) the Far West Texas Regional Water Planning Group;

(2) water authorities;

(3) industrial customers;

(4) agricultural interests;

(5) municipalities;

(6) fishing or recreational interests;

(7) environmental advocacy organizations; and

(8) institutions of higher education.

(e) Not later than December 31, 2008, the board shall

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submit to the legislature a written report regarding the study findings under Subsection (b) of this section.

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

Same as House version.

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

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

(d) Each basin and bay area stakeholders committee shall appoint the members of the basin and bay expert science team for the river basin and bay system for which the committee is established as provided by Section 11.02362, Water Code, as added by this Act. The terms of the initial members of each team expire

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April 1 of the fifth year that begins after the year in which the initial appointments are made.

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

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

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

(2) the increase in the amount of water authorized to be stored, taken, or diverted under an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted and the application for which is pending with the Texas Commission on Environmental Quality on the effective

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date of this Act or is filed with the commission on or after that date.

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

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SECTION 28. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.  
(b) This Act take effect only if Senate Bill No. 3, Acts of the 80th Regular Session, 2007, is enacted and becomes law.

CONFERENCE