

AN ACT

relating to the review and functions of the Texas Water Development Board, including the functions of the board and related entities in connection with the process for establishing and appealing desired future conditions in a groundwater management area.

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

SECTION 1. SECTION 6.013, Water Code, is amended to read as follows:

Sec. 6.013. SUNSET PROVISION. The Texas Water Development Board is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2023 [~~2011~~] and every 12th year after 2023 [~~2011~~] are reviewed.

SECTION 2. Subchapter D, Chapter 6, Water Code, is amended by adding Sections 6.113, 6.114, and 6.115 to read as follows:

Sec. 6.113. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's

1 jurisdiction.

2 (b) The board's procedures relating to alternative dispute
3 resolution must conform, to the extent possible, to any model
4 guidelines issued by the State Office of Administrative Hearings
5 for the use of alternative dispute resolution by state agencies.

6 (c) The board shall:

7 (1) coordinate the implementation of the policy
8 adopted under Subsection (a);

9 (2) provide training as needed to implement the
10 procedures for negotiated rulemaking or alternative dispute
11 resolution; and

12 (3) collect data concerning the effectiveness of those
13 procedures.

14 Sec. 6.114. FINANCIAL ASSISTANCE PROGRAMS: DEFAULT,
15 REMEDIES, AND ENFORCEMENT. (a) In this section:

16 (1) "Default" means:

17 (A) default in payment of the principal of or
18 interest on bonds, securities, or other obligations purchased or
19 acquired by the board;

20 (B) failure to perform any covenant related to a
21 bond, security, or other obligation purchased or acquired by the
22 board;

23 (C) a failure to perform any of the terms of a
24 loan, grant, or other financing agreement; or

25 (D) any other failure to perform an obligation,
26 breach of a term of an agreement, or default as provided by any
27 proceeding or agreement evidencing an obligation or agreement of a

1 recipient, beneficiary, or guarantor of financial assistance
2 provided by the board.

3 (2) "Financial assistance program recipient" means a
4 recipient or beneficiary of funds administered by the board under
5 this code, including a borrower, grantee, guarantor, or other
6 beneficiary.

7 (b) In the event of a default and on request by the board,
8 the attorney general shall seek:

9 (1) a writ of mandamus to compel a financial
10 assistance program recipient or the financial assistance program
11 recipient's officers, agents, and employees to cure the default;
12 and

13 (2) any other legal or equitable remedy the board and
14 the attorney general consider necessary and appropriate.

15 (c) A proceeding authorized by this section shall be brought
16 and venue is in a district court in Travis County.

17 (d) In a proceeding under this section, the attorney general
18 may recover reasonable attorney's fees, investigative costs, and
19 court costs incurred on behalf of the state in the proceeding in the
20 same manner as provided by general law for a private litigant.

21 Sec. 6.115. RECEIVERSHIP. (a) In this section, "financial
22 assistance program recipient" has the meaning assigned by Section
23 6.114.

24 (b) In addition to the remedies available under Section
25 6.114, at the request of the board, the attorney general shall bring
26 suit in a district court in Travis County for the appointment of a
27 receiver to collect the assets and carry on the business of a

1 financial assistance program recipient if:

2 (1) the action is necessary to cure a default by the
3 recipient; and

4 (2) the recipient is not:

5 (A) a municipality or county; or

6 (B) a district or authority created under Section
7 52, Article III, or Section 59, Article XVI, Texas Constitution.

8 (c) The court shall vest a receiver appointed by the court
9 with any power or duty the court finds necessary to cure the
10 default, including the power or duty to:

11 (1) perform audits;

12 (2) raise wholesale or retail water or sewer rates or
13 other fees;

14 (3) fund reserve accounts;

15 (4) make payments of the principal of or interest on
16 bonds, securities, or other obligations purchased or acquired by
17 the board; and

18 (5) take any other action necessary to prevent or to
19 remedy the default.

20 (d) The receiver shall execute a bond in an amount to be set
21 by the court to ensure the proper performance of the receiver's
22 duties.

23 (e) After appointment and execution of bond, the receiver
24 shall take possession of the books, records, accounts, and assets
25 of the financial assistance program recipient specified by the
26 court. Until discharged by the court, the receiver shall perform
27 the duties that the court directs and shall strictly observe the

1 final order involved.

2 (f) On a showing of good cause by the financial assistance
3 program recipient, the court may dissolve the receivership.

4 SECTION 3. Section 6.154, Water Code, is amended to read as
5 follows:

6 Sec. 6.154. COMPLAINT FILE. (a) The board shall maintain
7 a system to promptly and efficiently act on complaints [~~file on each~~
8 ~~written complaint~~] filed with the board. The board shall maintain
9 information about parties to the complaint, [~~file must include:~~

10 [(1) ~~the name of the person who filed the complaint;~~

11 [(2) ~~the date the complaint is received by the board;~~

12 [(3)] the subject matter of the complaint, [+

13 [(4) ~~the name of each person contacted in relation to~~
14 ~~the complaint;~~

15 [(5)] a summary of the results of the review or
16 investigation of the complaint, and the complaint's disposition [~~+~~
17 ~~and~~

18 [(6) ~~an explanation of the reason the file was closed,~~
19 ~~if the agency closed the file without taking action other than to~~
20 ~~investigate the complaint].~~

21 (b) The board shall make information available describing
22 its [~~provide to the person filing the complaint and to each person~~
23 ~~who is a subject of the complaint a copy of the board's policies~~
24 ~~and] procedures for [~~relating to~~] complaint investigation and
25 resolution.~~

26 SECTION 4. Section 6.155, Water Code, is amended to read as
27 follows:

1 Sec. 6.155. NOTICE OF COMPLAINT. The board[~~, at least~~
2 ~~quarterly until final disposition of the complaint,~~] shall
3 periodically notify the [~~person filing the~~] complaint parties [~~and~~
4 ~~each person who is a subject of the complaint~~] of the status of the
5 complaint until final disposition [~~investigation unless the notice~~
6 ~~would jeopardize an undercover investigation~~].

7 SECTION 5. Section 11.1271, Water Code, is amended by
8 amending Subsection (f) and adding Subsection (g) to read as
9 follows:

10 (f) The commission shall adopt rules:

11 (1) establishing criteria and deadlines for
12 submission of water conservation plans, including any required
13 amendments, and for submission of implementation reports; and

14 (2) requiring the methodology and guidance for
15 calculating water use and conservation developed under Section
16 16.403 to be used in the water conservation plans required by this
17 section.

18 (g) At a minimum, rules adopted under Subsection (f)(2) must
19 require an entity to report the most detailed level of municipal
20 water use data currently available to the entity. The commission
21 may not adopt a rule that requires an entity to report municipal
22 water use data that is more detailed than the entity's billing
23 system is capable of producing.

24 SECTION 6. Section 16.021, Water Code, is amended by
25 amending Subsections (c), (d), and (e) and adding Subsections (d-1)
26 and (g) to read as follows:

27 (c) The executive administrator shall designate the

1 director of the Texas Natural Resources Information System to serve
2 as the state geographic information officer. The state geographic
3 information officer shall:

4 (1) coordinate the acquisition and use of
5 high-priority imagery and data sets;

6 (2) establish, support, and disseminate authoritative
7 statewide geographic data sets;

8 (3) support geographic data needs of emergency
9 management responders during emergencies;

10 (4) monitor trends in geographic information
11 technology; and

12 (5) support public access to state geographic data and
13 resources [~~The Texas Geographic Information Council (TGIC) is~~

14 ~~created to provide strategic planning and coordination in the~~
15 ~~acquisition and use of geo-spatial data and related technologies in~~
16 ~~the State of Texas. The executive administrator and the executive~~
17 ~~director of the Department of Information Resources shall designate~~
18 ~~entities to be members of the TGIC. The chief administrative~~
19 ~~officer of each member entity shall select one representative to~~
20 ~~serve on the TGIC. The duties of the TGIC shall include providing~~
21 ~~guidance to the executive administrator in carrying out the~~
22 ~~executive administrator's duties under this section and guidance to~~
23 ~~the Department of Information Resources for development of rules~~
24 ~~related to statewide geo-spatial data and technology standards].~~

25 (d) Not later than December 1, 2016, and before the end of
26 each successive five-year period after that date, the board shall
27 submit to the governor, lieutenant governor, and speaker of the

1 house of representatives a report that contains recommendations
2 regarding:

3 (1) statewide geographic data acquisition needs and
4 priorities, including updates on progress in maintaining the
5 statewide digital base maps described by Subsection (e)(6);

6 (2) policy initiatives to address the acquisition,
7 use, storage, and sharing of geographic data across the state;

8 (3) funding needs to acquire data, implement
9 technologies, or pursue statewide policy initiatives related to
10 geographic data; and

11 (4) opportunities for new initiatives to improve the
12 efficiency, effectiveness, or accessibility of state government
13 operations through the use of geographic data [~~Member entities of~~
14 ~~the TCIC that are state agencies shall, and member entities that are~~
15 ~~not state agencies may, provide information to the TCIC about their~~
16 ~~investments in geographic information and plans for its use. Not~~
17 ~~later than November 1 of each even-numbered year, the TCIC shall~~
18 ~~prepare and provide to the board, the Department of Information~~
19 ~~Resources, the governor, and the legislature a report that:~~

20 [~~(1) describes the progress made by each TCIC member~~
21 ~~entity toward achieving geographic information system goals and in~~
22 ~~implementing geographic information systems initiatives; and~~

23 [~~(2) recommends additional initiatives to improve the~~
24 ~~state's geographic information systems programs].~~

25 (d-1) The board shall consult with stakeholders in
26 preparing the report required by Subsection (d).

27 (e) The [~~Under the guidance of the TCIC, the~~] executive

1 administrator shall:

2 (1) further develop the Texas Natural Resources
3 Information System by promoting and providing for effective
4 acquisition, archiving, documentation, indexing, and dissemination
5 of natural resource and related digital and nondigital data and
6 information;

7 (2) obtain information in response to disagreements
8 regarding names and name spellings for natural and cultural
9 features in the state and provide this information to the Board on
10 Geographic Names of the United States Department of the Interior;

11 (3) make recommendations to the Board on Geographic
12 Names of the United States Department of the Interior for naming any
13 natural or cultural feature subject to the limitations provided by
14 Subsection (f);

15 (4) make recommendations to the Department of
16 Information Resources to adopt and promote standards that
17 facilitate sharing of digital natural resource data and related
18 socioeconomic data among federal, state, and local governments and
19 other interested parties;

20 (5) acquire and disseminate natural resource and
21 related socioeconomic data describing the Texas-Mexico border
22 region; and

23 (6) coordinate, conduct, and facilitate the
24 development, maintenance, and use of mutually compatible statewide
25 digital base maps depicting natural resources and man-made
26 features.

27 (g) The board may establish one or more advisory committees

1 to assist the board or the executive administrator in implementing
2 this section, including by providing information in connection with
3 the preparation of the report required by Subsection (d). In
4 appointing members to an advisory committee, the board shall
5 consider including representatives of:

- 6 (1) state agencies that are major users of geographic
7 data;
- 8 (2) federal agencies;
- 9 (3) local governments; and
- 10 (4) the Department of Information Resources.

11 SECTION 7. Subsection (b), Section 16.023, Water Code, is
12 amended to read as follows:

13 (b) The account may be appropriated only to the board to:

14 (1) develop, administer, and implement the strategic
15 mapping program;

16 (2) provide grants to political subdivisions for
17 projects related to the development, use, and dissemination of
18 digital, geospatial information; and

19 (3) administer, implement, and operate other programs
20 of the Texas Natural Resources Information System, including:

21 (A) the operation of a Texas-Mexico border region
22 information center for the purpose of implementing Section
23 16.021(e)(5);

24 (B) the acquisition, storage, and distribution
25 of historical maps, photographs, and paper map products;

26 (C) the maintenance and enhancement of
27 information technology; and

1 (D) the production, storage, and distribution of
2 other digital base maps, as determined by the executive
3 administrator [~~or a state agency that is a member of the Texas~~
4 ~~Geographic Information Council~~].

5 SECTION 8. Section 16.051, Water Code, is amended by adding
6 Subsections (a-1) and (a-2) to read as follows:

7 (a-1) The state water plan must include:

8 (1) an evaluation of the state's progress in meeting
9 future water needs, including an evaluation of the extent to which
10 water management strategies and projects implemented after the
11 adoption of the preceding state water plan have affected that
12 progress; and

13 (2) an analysis of the number of projects included in
14 the preceding state water plan that received financial assistance
15 from the board.

16 (a-2) To assist the board in evaluating the state's progress
17 in meeting future water needs, the board may obtain implementation
18 data from the regional water planning groups.

19 SECTION 9. Subsections (c) and (e), Section 16.053, Water
20 Code, are amended to read as follows:

21 (c) No later than 60 days after the designation of the
22 regions under Subsection (b), the board shall designate
23 representatives within each regional water planning area to serve
24 as the initial coordinating body for planning. The initial
25 coordinating body may then designate additional representatives to
26 serve on the regional water planning group. The initial
27 coordinating body shall designate additional representatives if

1 necessary to ensure adequate representation from the interests
2 comprising that region, including the public, counties,
3 municipalities, industries, agricultural interests, environmental
4 interests, small businesses, electric generating utilities, river
5 authorities, water districts, and water utilities. The regional
6 water planning group shall maintain adequate representation from
7 those interests. In addition, the groundwater conservation
8 districts located in each management area, as defined by Section
9 36.001, located in the regional water planning area shall appoint
10 one representative of a groundwater conservation district located
11 in the management area and in the regional water planning area to
12 serve on the regional water planning group. In addition,
13 representatives of the board, the Parks and Wildlife Department,
14 and the Department of Agriculture shall serve as ex officio members
15 of each regional water planning group.

16 (e) Each regional water planning group shall submit to the
17 development board a regional water plan that:

18 (1) is consistent with the guidance principles for the
19 state water plan adopted by the development board under Section
20 16.051(d);

21 (2) provides information based on data provided or
22 approved by the development board in a format consistent with the
23 guidelines provided by the development board under Subsection (d);

24 (2-a) is consistent with the desired future conditions
25 adopted under Section 36.108 for the relevant aquifers located in
26 the regional water planning area as of the date the board most
27 recently adopted a state water plan under Section 16.051 or, at the

1 option of the regional water planning group, established subsequent
2 to the adoption of the most recent plan;

3 (3) identifies:

4 (A) each source of water supply in the regional
5 water planning area, including information supplied by the
6 executive administrator on the amount of modeled [~~managed~~]
7 available groundwater in accordance with the guidelines provided by
8 the development board under Subsections (d) and (f);

9 (B) factors specific to each source of water
10 supply to be considered in determining whether to initiate a
11 drought response;

12 (C) actions to be taken as part of the response;
13 and

14 (D) existing major water infrastructure
15 facilities that may be used for interconnections in the event of an
16 emergency shortage of water;

17 (4) has specific provisions for water management
18 strategies to be used during a drought of record;

19 (5) includes but is not limited to consideration of
20 the following:

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

23 (B) approved groundwater conservation district
24 management plans and other plans submitted under Section 16.054;

25 (C) all potentially feasible water management
26 strategies, including but not limited to improved conservation,
27 reuse, and management of existing water supplies, conjunctive use,

1 acquisition of available existing water supplies, and development
2 of new water supplies;

3 (D) protection of existing water rights in the
4 region;

5 (E) opportunities for and the benefits of
6 developing regional water supply facilities or providing regional
7 management of water supply facilities;

8 (F) appropriate provision for environmental
9 water needs and for the effect of upstream development on the bays,
10 estuaries, and arms of the Gulf of Mexico and the effect of plans on
11 navigation;

12 (G) provisions in Section 11.085(k)(1) if
13 interbasin transfers are contemplated;

14 (H) voluntary transfer of water within the region
15 using, but not limited to, regional water banks, sales, leases,
16 options, subordination agreements, and financing agreements; and

17 (I) emergency transfer of water under Section
18 11.139, including information on the part of each permit, certified
19 filing, or certificate of adjudication for nonmunicipal use in the
20 region that may be transferred without causing unreasonable damage
21 to the property of the nonmunicipal water rights holder;

22 (6) identifies river and stream segments of unique
23 ecological value and sites of unique value for the construction of
24 reservoirs that the regional water planning group recommends for
25 protection under Section 16.051;

26 (7) assesses the impact of the plan on unique river and
27 stream segments identified in Subdivision (6) if the regional water

1 planning group or the legislature determines that a site of unique
2 ecological value exists; and

3 (8) describes the impact of proposed water projects on
4 water quality.

5 SECTION 10. Section 16.402, Water Code, is amended by
6 amending Subsection (e) and adding Subsection (f) to read as
7 follows:

8 (e) The board and commission jointly shall adopt rules:

9 (1) identifying the minimum requirements and
10 submission deadlines for the annual reports required by Subsection
11 (b); ~~and~~

12 (2) requiring the methodology and guidance for
13 calculating water use and conservation developed under Section
14 16.403 to be used in the reports required by Subsection (b); and

15 (3) providing for the enforcement of this section and
16 rules adopted under this section.

17 (f) At a minimum, rules adopted under Subsection (e)(2) must
18 require an entity to report the most detailed level of municipal
19 water use data currently available to the entity. The board and
20 commission may not adopt a rule that requires an entity to report
21 municipal water use data that is more detailed than the entity's
22 billing system is capable of producing.

23 SECTION 11. Subchapter K, Chapter 16, Water Code, is
24 amended by adding Sections 16.403 and 16.404 to read as follows:

25 Sec. 16.403. WATER USE REPORTING. (a) The board and the
26 commission, in consultation with the Water Conservation Advisory
27 Council, shall develop a uniform, consistent methodology and

1 guidance for calculating water use and conservation to be used by a
2 municipality or water utility in developing water conservation
3 plans and preparing reports required under this code. At a minimum,
4 the methodology and guidance must include:

5 (1) a method of calculating water use for each sector
6 of water users served by a municipality or water utility;

7 (2) a method of classifying water users within
8 sectors;

9 (3) a method of calculating water use in the
10 residential sector that includes both single-family and
11 multifamily residences, in gallons per capita per day;

12 (4) a method of calculating water use in the
13 industrial, agricultural, commercial, and institutional sectors
14 that is not dependent on a municipality's population or the number
15 of customers served by a water utility; and

16 (5) guidelines on the use of service populations by a
17 municipality or water utility in developing a per-capita-based
18 method of calculation, including guidance on the use of permanent
19 and temporary populations in making calculations.

20 (b) The board or the commission, as appropriate, shall use
21 the methodology and guidance developed under Subsection (a) in
22 evaluating a water conservation plan, program of water
23 conservation, survey, or other report relating to water
24 conservation submitted to the board or the commission under:

25 (1) Section 11.1271;

26 (2) Section 13.146;

27 (3) Section 15.106;

- 1 (4) Section 15.607;
- 2 (5) Section 15.975;
- 3 (6) Section 15.995;
- 4 (7) Section 16.012(m);
- 5 (8) Section 16.402;
- 6 (9) Section 17.125;
- 7 (10) Section 17.277;
- 8 (11) Section 17.857; or
- 9 (12) Section 17.927.

10 (c) The board, in consultation with the commission and the
11 Water Conservation Advisory Council, shall develop a data
12 collection and reporting program for municipalities and water
13 utilities with more than 3,300 connections.

14 (d) Not later than January 1 of each odd-numbered year, the
15 board shall submit to the legislature a report that includes the
16 most recent data relating to:

17 (1) statewide water usage in the residential,
18 industrial, agricultural, commercial, and institutional sectors;
19 and

20 (2) the data collection and reporting program
21 developed under Subsection (c).

22 (e) Data included in a water conservation plan or report
23 required under this code and submitted to the board or commission
24 must be interpreted in the context of variations in local water use.
25 The data may not be the only factor considered by the commission in
26 determining the highest practicable level of water conservation and
27 efficiency achievable in the jurisdiction of a municipality or

1 water utility for purposes of Section 11.085(1).

2 Sec. 16.404. RULES AND STANDARDS. The commission and the
3 board, as appropriate, shall adopt rules and standards as necessary
4 to implement this subchapter.

5 SECTION 12. Section 17.003, Water Code, is amended by
6 adding Subsections (c), (d), (e), and (f) to read as follows:

7 (c) Water financial assistance bonds that have been
8 authorized but have not been issued are not considered to be state
9 debt payable from the general revenue fund for purposes of Section
10 49-j, Article III, Texas Constitution, until the legislature makes
11 an appropriation from the general revenue fund to the board to pay
12 the debt service on the bonds.

13 (d) In requesting approval for the issuance of bonds under
14 this chapter, the executive administrator shall certify to the bond
15 review board whether the bonds are reasonably expected to be paid
16 from:

- 17 (1) the general revenues of the state; or
18 (2) revenue sources other than the general revenues of
19 the state.

20 (e) The bond review board shall verify whether debt service
21 on bonds to be issued by the board under this chapter is state debt
22 payable from the general revenues of the state, in accordance with
23 the findings made by the board in the resolution authorizing the
24 issuance of the bonds and the certification provided by the
25 executive administrator under Subsection (d).

26 (f) Bonds issued under this chapter that are designed to be
27 paid from the general revenues of the state shall cease to be

1 considered bonds payable from those revenues if:

2 (1) the bonds are backed by insurance or another form
3 of guarantee that ensures payment from a source other than the
4 general revenues of the state; or

5 (2) the board demonstrates to the satisfaction of the
6 bond review board that the bonds no longer require payment from the
7 general revenues of the state and the bond review board so certifies
8 to the Legislative Budget Board.

9 SECTION 13. Section 17.9022, Water Code, is amended to read
10 as follows:

11 Sec. 17.9022. FINANCING OF GRANT OR LOAN FOR POLITICAL
12 SUBDIVISION; DEFAULT; VENUE. ~~[(a)]~~ The board may make a loan or
13 grant available to a political subdivision in any manner the board
14 considers economically feasible, including purchase of bonds or
15 securities of the political subdivision or execution of a loan or
16 grant agreement with the political subdivision. The board may not
17 purchase bonds or securities that have not been approved by the
18 attorney general and registered by the comptroller.

19 ~~[(b) In the event of a default in payment of the principal of~~
20 ~~or interest on bonds or securities purchased by the board, or any~~
21 ~~other default as defined in the proceedings or indentures~~
22 ~~authorizing the issuance of bonds, or a default of any of the terms~~
23 ~~of a loan agreement, the attorney general shall seek a writ of~~
24 ~~mandamus or other legal remedy to compel the political subdivision~~
25 ~~or its officers, agents, and employees to cure the default by~~
26 ~~performing the duties they are legally obligated to perform. The~~
27 ~~proceedings shall be brought and venue is in a district court in~~

1 ~~Travis County. This subsection is cumulative of any other rights or~~
2 ~~remedies to which the board may be entitled.]~~

3 SECTION 14. Section 36.001, Water Code, is amended by
4 adding Subdivision (30) to read as follows:

5 (30) "Desired future condition" means a quantitative
6 description, adopted in accordance with Section 36.108, of the
7 desired condition of the groundwater resources in a management area
8 at one or more specified future times.

9 SECTION 15. Section 36.063, Water Code, is amended to read
10 as follows:

11 Sec. 36.063. NOTICE OF MEETINGS. (a) Except as provided
12 by Subsections (b) and (c), notice [~~Notice~~] of meetings of the board
13 shall be given as set forth in the Open Meetings Act, Chapter 551,
14 Government Code. Neither failure to provide notice of a regular
15 meeting nor an insubstantial defect in notice of any meeting shall
16 affect the validity of any action taken at the meeting.

17 (b) At least 10 days before a hearing under Section
18 36.108(d-2) or a meeting at which a district will adopt a desired
19 future condition under Section 36.108(d-4), the board must post
20 notice that includes:

21 (1) the proposed desired future conditions and a list
22 of any other agenda items;

23 (2) the date, time, and location of the meeting or
24 hearing;

25 (3) the name, telephone number, and address of the
26 person to whom questions or requests for additional information may
27 be submitted;

1 (4) the names of the other districts in the district's
2 management area; and

3 (5) information on how the public may submit comments.

4 (c) Except as provided by Subsection (b), notice of a
5 hearing described by Subsection (b) must be provided in the manner
6 prescribed for a rulemaking hearing under Section 36.101(d).

7 SECTION 16. Subsections (a) and (e), Section 36.1071, Water
8 Code, are amended to read as follows:

9 (a) Following notice and hearing, the district shall, in
10 coordination with surface water management entities on a regional
11 basis, develop a comprehensive management plan which addresses the
12 following management goals, as applicable:

- 13 (1) providing the most efficient use of groundwater;
14 (2) controlling and preventing waste of groundwater;
15 (3) controlling and preventing subsidence;
16 (4) addressing conjunctive surface water management
17 issues;
18 (5) addressing natural resource issues;
19 (6) addressing drought conditions;
20 (7) addressing conservation, recharge enhancement,
21 rainwater harvesting, precipitation enhancement, or brush control,
22 where appropriate and cost-effective; and
23 (8) addressing [~~in a quantitative manner~~] the desired
24 future conditions adopted by the district under Section 36.108 [~~of~~
25 ~~the groundwater resources~~].

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

1 (1) identify the performance standards and management
2 objectives under which the district will operate to achieve the
3 management goals identified under Subsection (a);

4 (2) specify, in as much detail as possible, the
5 actions, procedures, performance, and avoidance that are or may be
6 necessary to effect the plan, including specifications and proposed
7 rules;

8 (3) include estimates of the following:

9 (A) modeled [~~managed~~] available groundwater in
10 the district based on the desired future condition established
11 under Section 36.108;

12 (B) the amount of groundwater being used within
13 the district on an annual basis;

14 (C) the annual amount of recharge from
15 precipitation, if any, to the groundwater resources within the
16 district;

17 (D) for each aquifer, the annual volume of water
18 that discharges from the aquifer to springs and any surface water
19 bodies, including lakes, streams, and rivers;

20 (E) the annual volume of flow into and out of the
21 district within each aquifer and between aquifers in the district,
22 if a groundwater availability model is available;

23 (F) the projected surface water supply in the
24 district according to the most recently adopted state water plan;
25 and

26 (G) the projected total demand for water in the
27 district according to the most recently adopted state water plan;

1 and

2 (4) consider the water supply needs and water
3 management strategies included in the adopted state water plan.

4 SECTION 17. Subchapter D, Chapter 36, Water Code, is
5 amended by amending Section 36.108 and adding Sections 36.1081
6 through 36.1086 to read as follows:

7 Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) In
8 this section:

9 (1) "Development [,"development] board" means the
10 Texas Water Development Board.

11 (2) "District representative" means the presiding
12 officer or the presiding officer's designee for any district
13 located wholly or partly in the management area.

14 (b) If two or more districts are located within the
15 boundaries of the same management area, each district shall prepare
16 a comprehensive management plan as required by Section 36.1071
17 covering that district's respective territory. On completion and
18 approval of the plan as required by Section 36.1072, each district
19 shall forward a copy of the new or revised management plan to the
20 other districts in the management area. The boards of the districts
21 shall consider the plans individually and shall compare them to
22 other management plans then in force in the management area.

23 (c) The district representatives [~~presiding officer, or the~~
24 ~~presiding officer's designee, of each district located in whole or~~
25 ~~in part in the management area]~~ shall meet at least annually to
26 conduct joint planning with the other districts in the management
27 area and to review the management plans, the [~~and~~] accomplishments

1 of ~~for~~ the management area, and proposals to adopt new or amend
2 existing desired future conditions. In reviewing the management
3 plans, the districts shall consider:

4 (1) the goals of each management plan and its impact on
5 planning throughout the management area;

6 (2) the effectiveness of the measures established by
7 each management plan for conserving and protecting groundwater and
8 preventing waste, and the effectiveness of these measures in the
9 management area generally;

10 (3) any other matters that the boards consider
11 relevant to the protection and conservation of groundwater and the
12 prevention of waste in the management area; and

13 (4) the degree to which each management plan achieves
14 the desired future conditions established during the joint planning
15 process.

16 (d) Not later than September 1, 2010, and every five years
17 thereafter, the districts shall consider groundwater availability
18 models and other data or information for the management area and
19 shall propose for adoption ~~[establish]~~ desired future conditions
20 for the relevant aquifers within the management area. Before
21 voting on the proposed ~~[In establishing the]~~ desired future
22 conditions of the aquifers under Subsection (d-2) ~~[this section]~~,
23 the districts shall consider:

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

27 (2) the water supply needs and water management

1 strategies included in the state water plan;

2 (3) hydrological conditions, including for each
3 aquifer in the management area the total estimated recoverable
4 storage as provided by the executive administrator, and the average
5 annual recharge, inflows, and discharge;

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

9 (5) the impact on subsidence;

10 (6) socioeconomic impacts reasonably expected to
11 occur;

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

16 (8) the feasibility of achieving the desired future
17 condition; and

18 (9) any other information relevant to the specific
19 desired future conditions [~~uses or conditions of an aquifer within~~
20 ~~the management area that differ substantially from one geographic~~
21 ~~area to another~~].

22 (d-1) The districts may establish different desired future
23 conditions for:

24 (1) each aquifer, subdivision of an aquifer, or
25 geologic strata located in whole or in part within the boundaries of
26 the management area; or

27 (2) each geographic area overlying an aquifer in whole

1 or in part or subdivision of an aquifer within the boundaries of the
2 management area.

3 (d-2) [~~(d-1)~~] The desired future conditions proposed
4 [~~established~~] under Subsection (d) must provide a balance between
5 the highest practicable level of groundwater production and the
6 conservation, preservation, protection, recharging, and prevention
7 of waste of groundwater and control of subsidence in the management
8 area. This subsection does not prohibit the establishment of
9 desired future conditions that provide for the reasonable long-term
10 management of groundwater resources consistent with the management
11 goals under Section 36.1071(a). The desired future conditions
12 proposed under Subsection (d) must be approved [~~adopted~~] by a
13 two-thirds vote of all the district representatives for
14 distribution to the districts in the management area. A period of
15 not less than 90 days for public comments begins on the day the
16 proposed desired future conditions are mailed to the districts.
17 During the public comment period and after posting notice as
18 required by Section 36.063, each district shall hold a public
19 hearing on any proposed desired future conditions relevant to that
20 district. During the public comment period, the district shall
21 make available in its office a copy of the proposed desired future
22 conditions and any supporting materials, such as the documentation
23 of factors considered under Subsection (d) and groundwater
24 availability model run results. After the public hearing, the
25 district shall compile for consideration at the next joint planning
26 meeting a summary of relevant comments received, any suggested
27 revisions to the proposed desired future conditions, and the basis

1 for the revisions [~~present at a meeting.~~

2 ~~[(1) at which at least two-thirds of the districts~~
3 ~~located in whole or in part in the management area have a voting~~
4 ~~representative in attendance, and~~

5 ~~[(2) for which all districts located in whole or in~~
6 ~~part in the management area provide public notice in accordance~~
7 ~~with Chapter 551, Government Code.~~

8 ~~[(d-2) Each district in the management area shall ensure~~
9 ~~that its management plan contains goals and objectives consistent~~
10 ~~with achieving the desired future conditions of the relevant~~
11 ~~aquifers as adopted during the joint planning process].~~

12 (d-3) After the earlier of the date on which all the
13 districts have submitted their district summaries or the expiration
14 of the public comment period under Subsection (d-2), the district
15 representatives shall reconvene to review the reports, consider any
16 district's suggested revisions to the proposed desired future
17 conditions, and finally adopt the desired future conditions for the
18 management area. The desired future conditions must be adopted as a
19 resolution by a two-thirds vote of all the district
20 representatives. The district representatives shall produce a
21 desired future conditions explanatory report for the management
22 area and submit to the development board and each district in the
23 management area proof that notice was posted for the joint planning
24 meeting, a copy of the resolution, and a copy of the explanatory
25 report. The report must:

26 (1) identify each desired future condition;

27 (2) provide the policy and technical justifications

1 for each desired future condition;

2 (3) include documentation that the factors under
3 Subsection (d) were considered by the districts and a discussion of
4 how the adopted desired future conditions impact each factor;

5 (4) list other desired future condition options
6 considered, if any, and the reasons why those options were not
7 adopted; and

8 (5) discuss reasons why recommendations made by
9 advisory committees and relevant public comments received by the
10 districts were or were not incorporated into the desired future
11 conditions.

12 (d-4) As soon as possible after a district receives the
13 desired future conditions resolution and explanatory report under
14 Subsection (d-3), the district shall adopt the desired future
15 conditions in the resolution and report that apply to the district.

16 (e) Except as provided by this section, a [A] joint meeting
17 under this section must be held in accordance with Chapter 551,
18 Government Code. Each district shall comply with Chapter 552,
19 Government Code. The district representatives may elect one
20 district to be responsible for providing the notice of a joint
21 meeting that this section would otherwise require of each district
22 in the management area. Notice of a joint [the] meeting must be
23 provided at least 10 days before the date of the meeting by:

24 (1) providing notice to the secretary of state;

25 (2) providing notice to the county clerk of each
26 county located wholly or partly in a district that is located wholly
27 or partly in the management area; and

1 (3) posting notice at a place readily accessible to
2 the public at the district office of each district located wholly or
3 partly in the management area.

4 (e-1) The secretary of state and the county clerk of each
5 county described by Subsection (e) shall post notice of the meeting
6 in the manner provided by Section 551.053, Government Code.

7 (e-2) Notice of a joint meeting must include:

8 (1) the date, time, and location of the meeting;

9 (2) a summary of any action proposed to be taken;

10 (3) the name of each district located wholly or partly
11 in the management area; and

12 (4) the name, telephone number, and address of one or
13 more persons to whom questions, requests for additional
14 information, or comments may be submitted.

15 (e-3) The failure or refusal of one or more districts to
16 post notice for a joint meeting under Subsection (e)(3) does not
17 invalidate an action taken at the joint meeting [~~shall be given in~~
18 ~~accordance with the requirements for notice of district board of~~
19 ~~directors meetings under that Act].~~

20 Sec. 36.1081. TECHNICAL STAFF AND SUBCOMMITTEES FOR JOINT
21 PLANNING. (a) On request, the commission and the Texas Water
22 Development Board shall make technical staff available to serve in
23 a nonvoting advisory capacity to assist with the development of
24 desired future conditions during the joint planning process under
25 Section 36.108.

26 (b) During the joint planning process under Section 36.108,
27 the district representatives may appoint and convene nonvoting

1 advisory subcommittees who represent social, governmental,
2 environmental, or economic interests to assist in the development
3 of desired future conditions.

4 Sec. 36.1082. PETITION FOR INQUIRY. (a) In this section,
5 "affected person" means, with respect to a management area:

6 (1) an owner of land in the management area;

7 (2) a district in or adjacent to the management area;

8 (3) a regional water planning group with a water
9 management strategy in the management area;

10 (4) a person who holds or is applying for a permit from
11 a district in the management area;

12 (5) a person who has groundwater rights in the
13 management area; or

14 (6) any other person defined as affected by commission
15 rule.

16 (b) An affected person [~~(f) A district or person with a~~
17 ~~legally defined interest in the groundwater within the management~~
18 ~~area] may file a petition with the commission requesting an inquiry
19 for any of the following reasons:~~

20 (1) a district fails to submit its management plan to
21 the executive administrator;

22 (2) [if] a district fails [or districts refused] to
23 participate [join] in the joint planning process under Section
24 36.108;

25 (3) a district fails to adopt rules;

26 (4) a district fails to adopt the applicable desired
27 future conditions adopted by the management area at a joint

1 meeting;

2 (5) a district fails to update its management plan
3 before the second anniversary of the adoption of desired future
4 conditions by the management area;

5 (6) a district fails to update its rules to implement
6 the applicable desired future conditions before the first
7 anniversary of the date it updated its management plan with the
8 adopted desired future conditions;

9 (7) [or the process failed to result in adequate
10 planning, including the establishment of reasonable future desired
11 conditions of the aquifers, and the petition provides evidence
12 that:

13 [(1) a district in the groundwater management area has
14 failed to adopt rules;

15 [(2)] the rules adopted by a district are not designed
16 to achieve the desired future conditions adopted by [condition of
17 the groundwater resources in] the [groundwater] management area
18 [established] during the joint planning process;

19 (8) [(3)] the groundwater in the management area is
20 not adequately protected by the rules adopted by a district; or

21 (9) [(4)] the groundwater in the [groundwater]
22 management area is not adequately protected due to the failure of a
23 district to enforce substantial compliance with its rules.

24 (c) [(g)] Not later than the 90th day after the date the
25 petition is filed, the commission shall review the petition and
26 either:

27 (1) dismiss the petition if the commission finds that

1 the evidence is not adequate to show that any of the conditions
2 alleged in the petition exist; or

3 (2) select a review panel as provided in Subsection
4 (d) [~~(h)~~].

5 (d) [~~(h)~~] If the petition is not dismissed under Subsection
6 (c) [~~(g)~~], the commission shall appoint a review panel consisting
7 of a chairman and four other members. A director or general manager
8 of a district located outside the [~~groundwater~~] management area
9 that is the subject of the petition may be appointed to the review
10 panel. The commission may not appoint more than two members of the
11 review panel from any one district. The commission also shall
12 appoint a disinterested person to serve as a nonvoting recording
13 secretary for the review panel. The recording secretary may be an
14 employee of the commission. The recording secretary shall record
15 and document the proceedings of the panel.

16 (e) [~~(i)~~] Not later than the 120th day after appointment,
17 the review panel shall review the petition and any evidence
18 relevant to the petition and, in a public meeting, consider and
19 adopt a report to be submitted to the commission. The commission
20 may direct the review panel to conduct public hearings at a location
21 in the [~~groundwater~~] management area to take evidence on the
22 petition. The review panel may attempt to negotiate a settlement or
23 resolve the dispute by any lawful means.

24 (f) [~~(j)~~] In its report, the review panel shall include:

25 (1) a summary of all evidence taken in any hearing on
26 the petition;

27 (2) a list of findings and recommended actions

1 appropriate for the commission to take and the reasons it finds
2 those actions appropriate; and

3 (3) any other information the panel considers
4 appropriate.

5 (g) [~~(k)~~] The review panel shall submit its report to the
6 commission. The commission may take action under Section 36.3011.

7 Sec. 36.1083. APPEAL OF DESIRED FUTURE CONDITIONS. (a) In
8 this section, "development board" means the Texas Water Development
9 Board.

10 (b) [~~(l)~~] A person with a legally defined interest in the
11 groundwater in the [~~groundwater~~] management area, a district in or
12 adjacent to the [~~groundwater~~] management area, or a regional water
13 planning group for a region in the [~~groundwater~~] management area
14 may file a petition with the development board appealing the
15 approval of the desired future conditions of the groundwater
16 resources established under this section. The petition must
17 provide evidence that the districts did not establish a reasonable
18 desired future condition of the groundwater resources in the
19 [~~groundwater~~] management area.

20 (c) [~~(m)~~] The development board shall review the petition
21 and any evidence relevant to the petition. The development board
22 shall hold at least one hearing at a central location in the
23 management area to take testimony on the petition. The development
24 board may delegate responsibility for a hearing to the executive
25 administrator or to a person designated by the executive
26 administrator. If the development board finds that the conditions
27 require revision, the development board shall submit a report to

1 the districts that includes a list of findings and recommended
2 revisions to the desired future conditions of the groundwater
3 resources.

4 (d) [~~(n)~~] The districts shall prepare a revised plan in
5 accordance with development board recommendations and hold, after
6 notice, at least one public hearing at a central location in the
7 [~~groundwater~~] management area. After consideration of all public
8 and development board comments, the districts shall revise the
9 conditions and submit the conditions to the development board for
10 review.

11 Sec. 36.1084. MODELED AVAILABLE GROUNDWATER. (a) The
12 Texas Water Development Board shall require the [~~(e) The~~]
13 districts in a management area to [~~shall~~] submit to the executive
14 administrator not later than the 60th day after the date on which
15 the districts adopted desired future conditions under Section
16 36.108(d-3):

17 (1) the desired future conditions adopted
18 [~~established~~] under Section 36.108;

19 (2) proof that notice was posted for the joint
20 planning meeting; and

21 (3) the desired future conditions explanatory report
22 [~~this section to the executive administrator~~].

23 (b) The executive administrator shall provide each district
24 and regional water planning group located wholly or partly in the
25 management area with the modeled [~~managed~~] available groundwater in
26 the management area based upon the desired future conditions
27 adopted by the districts [~~condition of the groundwater resources~~

1 ~~established under this section~~].

2 Sec. 36.1085. MANAGEMENT PLAN GOALS AND OBJECTIVES. Each
3 district in the management area shall ensure that its management
4 plan contains goals and objectives consistent with achieving the
5 desired future conditions of the relevant aquifers as adopted
6 during the joint planning process.

7 Sec. 36.1086. JOINT EFFORTS BY DISTRICTS IN A MANAGEMENT
8 AREA. [~~p~~] Districts located within the same [~~groundwater~~]
9 management areas or in adjacent management areas may contract to
10 jointly conduct studies or research, or to construct projects,
11 under terms and conditions that the districts consider beneficial.
12 These joint efforts may include studies of groundwater availability
13 and quality, aquifer modeling, and the interaction of groundwater
14 and surface water; educational programs; the purchase and sharing
15 of equipment; and the implementation of projects to make
16 groundwater available, including aquifer recharge, brush control,
17 weather modification, desalination, regionalization, and treatment
18 or conveyance facilities. The districts may contract under their
19 existing authorizations including those of Chapter 791, Government
20 Code, if their contracting authority is not limited by Sections
21 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

22 SECTION 18. Section 36.3011, Water Code, is amended to read
23 as follows:

24 Sec. 36.3011. COMMISSION ACTION REGARDING [~~FAILURE OF~~]
25 DISTRICT DUTIES [~~TO CONDUCT JOINT PLANNING~~]. Not later than the
26 45th day after receiving the review panel's report under Section
27 36.1082 [~~36.108~~], the executive director or the commission shall

1 take action to implement any or all of the panel's recommendations.
2 The commission may take any action against a district it considers
3 necessary in accordance with Section 36.303 if the commission finds
4 that:

5 (1) the [~~a~~] district has failed to submit its
6 management plan to the executive administrator;

7 (2) the district has failed to participate in the
8 joint planning process under Section 36.108;

9 (3) the [~~a~~] district has failed to adopt rules;

10 (4) the district has failed to adopt the applicable
11 desired future conditions adopted by the management area at a joint
12 meeting;

13 (5) the district has failed to update its management
14 plan before the second anniversary of the adoption of desired
15 future conditions by the management area;

16 (6) the district has failed to update its rules to
17 implement the applicable desired future conditions before the first
18 anniversary of the date it updated its management plan with the
19 adopted desired future conditions;

20 (7) [~~3~~] the rules adopted by the district are not
21 designed to achieve the desired future conditions adopted by
22 [condition of the groundwater resources in] the [groundwater]
23 management area during the joint planning process; [~~or~~]

24 (8) [~~4~~] the groundwater in the management area is
25 not adequately protected by the rules adopted by the district; [~~7~~]
26 or

27 (9) the groundwater in the management area is not

1 adequately protected because of the district's failure to enforce
2 substantial compliance with its rules.

3 SECTION 19. Sections 15.908 and 17.180, Water Code, are
4 repealed.

5 SECTION 20. As soon as practicable after the effective date
6 of this Act, groundwater conservation districts shall appoint
7 initial representatives to regional water planning groups as
8 required by Subsection (c), Section 16.053, Water Code, as amended
9 by this Act.

10 SECTION 21. Not later than January 1, 2013:

11 (1) the Texas Commission on Environmental Quality
12 shall adopt rules under Subsection (f), Section 11.1271, Water
13 Code, as amended by this Act;

14 (2) the Texas Water Development Board and the Texas
15 Commission on Environmental Quality jointly shall adopt rules under
16 Subsection (e), Section 16.402, Water Code, as amended by this Act;
17 and

18 (3) the Texas Water Development Board and the Texas
19 Commission on Environmental Quality, in consultation with the Water
20 Conservation Advisory Council, shall develop the water use and
21 conservation calculation methodology and guidance and the data
22 collection and reporting program required by Subsections (a) and
23 (c), Section 16.403, Water Code, as added by this Act.

24 SECTION 22. Not later than January 1, 2015, the Texas Water
25 Development Board shall submit to the legislature the first report
26 required by Subsection (d), Section 16.403, Water Code, as added by
27 this Act.

1 SECTION 23. The notice provisions of Subsections (b) and
2 (c), Section 36.063, Water Code, as added by this Act, apply only to
3 a meeting or hearing of a groundwater conservation district or a
4 joint planning meeting of groundwater conservation districts held
5 on or after the effective date of this Act. A meeting or hearing
6 held before the effective date of this Act is subject to the notice
7 provisions in effect at the time of the meeting or hearing, and
8 those provisions are continued in effect for that purpose.

9 SECTION 24. The requirement that a groundwater conservation
10 district's management plan under Subsection (a), Section 36.1071,
11 Water Code, as amended by this Act, include the desired future
12 conditions adopted under Section 36.108, Water Code, as amended by
13 this Act, for submission to the executive administrator of the
14 Texas Water Development Board before the plan is considered
15 administratively complete applies only to a district management
16 plan submitted to the executive administrator on or after the
17 effective date of this Act. A management plan submitted before the
18 effective date of this Act is governed by the law in effect on the
19 date the plan was submitted, and that law is continued in effect for
20 that purpose.

21 SECTION 25. The procedures for the adoption and reporting
22 of desired future conditions of groundwater resources in a
23 management area under Section 36.108, Water Code, as amended by
24 this Act, and Section 36.1084, Water Code, as added by this Act,
25 apply only to the adoption of desired future conditions that occurs
26 on or after the effective date of this Act. Desired future
27 conditions adopted before the effective date of this Act are

1 governed by the law in effect on the date the desired future
2 conditions were adopted, and that law is continued in effect for
3 that purpose.

4 SECTION 26. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 660 passed the Senate on April 20, 2011, by the following vote: Yeas 30, Nays 1; May 27, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2011, House granted request of the Senate; May 29, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 660 passed the House, with amendments, on May 20, 2011, by the following vote: Yeas 143, Nays 4, two present not voting; May 28, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 147, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor